

1 BEFORE THE
2 ILLINOIS COMMERCE COMMISSION
3 IN THE MATTER OF:)
4 COMMONWEALTH EDISON COMPANY)
5) No. 00 -0361
6 Petition for approval of a)
7 revised decommissioning)
8 expense adjustment rider.)
9 Chicago, Illinois
10 August 25, 2000
11 Met pursuant to notice at 9:00 a.m.
12
13 BEFORE:
14 MR. PHILLIP CASEY and MR. TERRY HILLIARD,
15 Administrative Law Judges
16 APPEARANCES:
17 HOPKINS & SUTTER
18 MR. PAUL HANZLIK and
19 MR. ROBERT FELDMEIER
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16 SULLIVAN REPORTING COMPANY, by
17 Michael R. Urbanski, CSR
18 Barbara A. Richmond, CSR
19 Cari Ann Bills, CSR

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I N D E X

Witnesses:	Direct	Cross	Re - direct	Re- cross	By Judge
la guardia	390	398			
		403			
		411			
		421			
		432			
		454			
		475			
				496	
				501	
Riley					
	507				
		510			

E X H I B I T S

Number	For Identification	In Evidence
1, 10 and 14	383	
7	404	
8	431	
1, 10 and 14		504
1, 2 and 3	506	
2 and 3		510

1 (Whereupon, Edison
2 Exhibits 1, 10 and 14 were marked
3 for identification.)

4 JUDGE CASEY: Pursuant to the authority and
5 direction of the Illinois Commerce Commission, I now
6 call Docket 00-0361. This is Commonwealth Edison
7 Company's petition for the approval of
8 decommissioning expense adjustment rider on an
9 expedited schedule.

10 May I have the appearances for the
11 record.

12 MR. FELDMIEIER: Robert Feldmeier and John Rogers
13 on behalf of ComEd.

14 MR. JOLLY: On behalf of the city of Chicago,
15 Conrad Reddick and Ronald Jolly.

16 MS. NORINGTON: Karin Norington on behalf of the
17 Citizens Utility Board.

18 MR. WARREN: R. Lawrence Warren and Mark Kaminski
19 for the Attorney General's Office on behalf of the
20 People of the State of Illinois.

21 MR. ROSENBLUM: Dan Rosenblum Environmental Law &
22 Policy Center.

1 MR. LEVIN: Mitchell Levin and Leijuana Doss,
2 Cook County State's Attorney's Office on behalf of
3 the People of Cook County.

4 MR. TOWNSEND: On behalf of the Chicago Area
5 Industrial and Health Care Coalition, law firm of
6 Piper, Marbury, Rudnick & Wolfe by Christopher J.
7 Townsend and David I. Fein.

8 MR. ROBERTSON: Eric Robertson, Leuders,
9 Robertson & Konzen on behalf of the Illinois
10 Industrial Energy Consumers.

11 JUDGE CASEY: Let the record reflect that there
12 are no further appearances.

13 JUDGE HILLIARD: Staff was --

14 JUDGE CASEY: At this point staff is not in the
15 room; however, they were previously.

16 This matter comes before us today
17 continued from yesterday on hearing.

18 Before going forward with the witness
19 testimony, as instructed by the Hearing Examiners
20 yesterday eve, does anyone have any motions in
21 limine regarding any of the testimony that's to be
22 filed or be presented today? Okay.

1 Mr. Feldmeier -- sorry.

2 MR. JOLLY: Before we get started, I just wanted
3 to point out that when the CUB and the City had
4 spoke with attorneys for Hopkins & Sutter regarding
5 the scheduling of witnesses, we stated that Mr.
6 Schlissel needed to go either on Thursday afternoon
7 or Friday morning.

8 Due to an oversight on my part, I forgot
9 to mention that yesterday.

10 I spoke with Mr. Hanzlik this morning who
11 indicated -- I asked him about potentially switching
12 Mr. LaGuardia and Mr. Schlissel.
13 Mr. Hanzlik indicated that wasn't possible.

14 We won't to observe to that. However,
15 Mr. Schlissel does have to leave by 2:30 p.m. to
16 make the flight arrangements he's made.

17 MR. FELDMEIER: If I could respond briefly.

18 Mr. Schlissel's departure at 2:30 I think
19 will be an issue for us.

20 It was not my recollection we were told
21 he would be unavailable this afternoon.

22 Yesterday, if you recall, we had an

1 extended discussion here in the hearing room about
2 putting Mr. LaGuardia on first at 9:00 a.m., and
3 there was an agreement that that would be the plan.
4 We have done that.

5 There was also an understanding that Mr.
6 Riley would appear at 10:30.

7 With those two witnesses going this
8 morning and with CUB now saying Mr. Schlissel has to
9 leave at 2:30, that does not give us sufficient time
10 to cross-examine that witness who is a very
11 substantial witness in their case. So we would
12 object to his departure at 2:30.

13 We understood he would not be available
14 next week but we do need him available today for our
15 cross-examination.

16 MR. JOLLY: I will point out that Miss Norington
17 sent an e-mail to Mr. Feldmeier stating Mr.
18 Schlissel's limitations and I could print that out
19 and certainly provide that to the Hearing Examiners.

20 But those were specifically the limits on
21 Mr. Schlissel's availability, Friday morning and
22 Thursday afternoon.

1 MR. FELDMER: With the blizzard of detail in
2 this case, that may be correct.

3 But yesterday we sat here and we talked
4 about scheduling. We scheduled two witnesses in the
5 morning.

6 I don't see how we could possibly get a
7 third very substantial witness done by 2:30.

8 JUDGE HILLIARD: Is Mr. Riley here?

9 MR. FELDMER: No. It's my understanding.

10 JUDGE HILLIARD: Riley won't be here until 10:30.

11 MR. FELDMER: That's right.

12 JUDGE HILLIARD: Have you discussed moving Riley
13 around?

14 MR. FELDMER: I think from what I recall
15 yesterday that Mr. Riley has a similar type
16 limitation due to travel arrangements, and we could
17 talk about that with staff's counsel.

18 If his schedule can be removed and if we
19 have an opportunity to call the attorney who will be
20 conducting the cross-examination to tell them things
21 are getting moved up a little bit, that can be done
22 and we'll accommodate his scheduling concerns that

1 way.

2 But what we can't have is both of these
3 witnesses going on until the afternoon and then just
4 having a very limited opportunity to cross-examine
5 Mr. Schlissel.

6 MR. JOLLY: I would also point out that in my
7 conversation with Mr. Hanzlik, he indicated that
8 he did not think it would be a problem to get
9 Mr. Schlissel off by 2:30, so I don't know what the
10 source of Mr. Feldmeier's information is, but that
11 is what Mr. Hanzlik told me this morning, so. . .

12 MR. FELDMIEIER: I was not part of that.

13 JUDGE HILLIARD: Why don't we wait until
14 Mr. Riley comes or see how this goes. Maybe it
15 won't take too long.

16 I understand your problem. We'll try to
17 accommodate you.

18 MR. JOLLY: Thank you.

19 MR. FELDMIEIER: There's one other preliminary
20 matter I'd like to take up.

21 Earlier in the week we filed responses to
22 nine Hearings Examiner questions that were raised.

1 Yesterday, we were told that we should
2 present those in the form of testimony. We will
3 begin doing that today. Mr. LaGuardia will sponsor
4 the answer to two of the questions.

5 I have redacted one sentence that he does
6 not have knowledge of. I have copies here for
7 counsel if they would like that.

8 I understand people may not have brought
9 these materials.

10 We will be removing one sentence from one
11 of the answers.

12 JUDGE HILLIARD: All right.

13 MR. FELDMEIER: With that our first witness will
14 be Tom LaGuardia.

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1 (Witness sworn.)

2 THOMAS LA GUARDIA,

3 having been called as a witness herein, after having

4 been first duly sworn, was examined and testified as

5 follows:

6 DIRECT EXAMINATION

7 BY

8 MR. FELDMEIER:

1 9 Q. Good morning, Mr. LaGuardia.

10 A. Good morning.

2 11 Q. Could you state your full name and spell it

12 for the benefit of the court reporter.

13 A. It's Thomas S. LaGuardia, L-a-G-u-a-r-d-i-a.

3 14 Q. You have before you what has been marked as

15 Edison Exhibit 1.

16 Could you take a look at that and tell me

17 if that is the direct testimony you have prepared in

18 this case?

19 A. Yes, it is.

4 20 Q. It has attached to it an exhibit identified

21 as Schedule TSL-1.

22 Is that a schedule that you have prepared

1 in connection with your direct testimony?

2 A. Yes.

5 3 Q. In the hearing room today are additional
4 Exhibits marked TSL-2 through TSL-9.

5 Have you reviewed those exhibits?

6 A. Yes, I have.

6 7 Q. And are they additional exhibits that have
8 been prepared in connection with your direct
9 testimony?

10 A. Yes.

7 11 Q. Let me show you what's been marked as Edison
12 Exhibit No. 10 which you also have in front of you?

13 A. Yes.

8 14 Q. Is that the rebuttal testimony that you have
15 prepared in connection with this matter?

16 A. Yes, it is.

9 17 Q. And, finally, I'm going to show you what has
18 been marked as ComEd Exhibit No. 14, and in
19 particular, I'm going to draw your attention to
20 responses to Questions No. 7 and 8, if you could
21 take a look at those.

22 Have you reviewed those responses in

1 connection with your testimony here this morning?

2 A. Yes, I have.

3 Q. And if I were to ask you the same questions
4 that are transcribed in these exhibits this morning,
5 would you give me the same answers?

6 A. Yes, I would.

7 MR. FELDMEIER: With that, we would move for the
8 admission of Edison Exhibit 1, Schedules TSL -1
9 through 9, Edison Exhibit 10 and Edison Exhibit 14
10 to the extent of the responses to Requests 7 and 8
11 with the redaction noted in the third paragraph of
12 the response to Question 8, and make Mr. LaGuardia
13 available for cross-examination.

14 JUDGE HILLIARD: Well, the redaction doesn't
15 appear on the copy that I have here. Is it on
16 yours? Okay. All right.

17 Is there any objection to these exhibits?

18 MR. TOWNSEND: Mr. Examiner, we have not
19 been served with the additional testimony that
20 Mr. Feldmeier indicated that the witness is
21 presenting today, so we don't know whether or not we
22 have an objection or not.

1 We'd like to be able to review that and
2 be able to raise an objection once we have had an
3 opportunity to review that, as well as the
4 additional exhibits which apparently are going to be
5 included as attachments to his direct testimony.

6 It's my understanding that the direct
7 testimony only had one schedule. All of a sudden,
8 on the day of trial, without any additional notice,
9 we have been informed that there are additional
10 schedules that are going to be attached to the
11 testimony, which we have not been informed about or
12 had a chance to review.

13 MR. FELDMEIER: I'll address the last point
14 first.

15 Those materials were served with the
16 direct testimony. They're the volumes of the TLG
17 cost studies and they did accompany Mr. LaGuardia's
18 direct testimony that we served.

19 As far as the additional testimony, what
20 Mr. Townsend referred to as the additional
21 testimony, these were originally served as responses
22 to Hearing Examiner questions. That went out

1 earlier in the week. They were served on the
2 parties.

3 We have now been informed that this
4 material should be put in in the form of testimony.
5 We're starting that process with Mr. LaGuardia.

6 I do have extra copies here if you would
7 like to see them. It's two very brief questions
8 that he will sponsoring. I have made the redaction
9 that I referred to.

10 If you would like to take a look at
11 these, you can review them while he testifies.

12 MR. TOWNSEND: Again, I would just request that
13 these not be admitted into the record until we have
14 had an opportunity to review them.

15 In addition the copy of the testimony
16 with which we were served only had a single exhibit
17 attached to it, the direct testimony.

18 MR. FELDMEIER: It's our understanding that
19 everything was served.

20 In any event these same materials are
21 part of the record in the 1999 decommissioning case
22 and they're already incorporated into the record so

1 there's no surprise here. This is something the
2 parties are familiar with.

3 JUDGE HILLIARD: These are the cost
4 decommissioning studies, there are a number of them,
5 one for each unit.

6 MR. TOWNSEND: I have seen those in the context
7 of the '99 proceeding. If they are, in fact, just
8 duplicative of what's already in the record, then
9 we'd suggest that we just rely on what's already
10 been incorporated into the record rather than having
11 additional paper incorporated into this record.

12 JUDGE HILLIARD: That other record is one in
13 which we're taking administrative notice. Those
14 exhibits are not part of this record officially.

15 So if you have objections to including
16 those exhibits which you have seen in that other
17 docket, I'll give you a chance to review the DR
18 responses and you can make your record on that at an
19 appropriate time.

20 MR. TOWNSEND: I appreciate it. Thank you.

21 MR. FELDMEIER: Just to explain, the only reason
22 we're putting it in now is because these are very

1 important and we thought that we don't know where
2 the record from the other case is presently.

3 We thought that it would be helpful if we
4 submitted the materials once again.

5 Again, I would move for the admission of
6 Exhibits 1 and 10 and the accompanying schedules.

7 To accommodate Mr. Townsend's concerns,
8 I'm willing to move for the admission of the two
9 questions in Exhibit 14 subject to
10 cross-examination.

11 JUDGE CASEY: Mr. Feldmeier, the other
12 attachments, are they here in the hearing room?

13 MR. FELDMEIER: They're here, right there.
14 They're kind of voluminous so I put them over there.

15 JUDGE HILLIARD: Mr. Feldmeier, why don't you
16 renew your motion when we're through with the
17 examination of this witness, give him a chance to
18 make his record.

19 MR. FELDMEIER: That's fine.

20 JUDGE HILLIARD: Do you have any further direct?

21 MR. FELDMEIER: No, we would make Mr. LaGuardia
22 available for cross-examination.

1 JUDGE HILLIARD: All right. Can we have an
2 estimate how much time it's going to take for cross
3 of this witness.

4 MR. LEVIN: Mine would be 10, 15 minutes , tops.

5 MR. REVETHIS: I'd say well within inside of a
6 half an hour. Probably more like 15 minutes but
7 certainly inside of a half an hour.

8 JUDGE HILLIARD: Anybody else?

9 MR. WARREN: We'll have maybe 15 minutes or so.

10 MR. JOLLY: City will have approximately half an
11 hour to 40 minutes.

12 MR. TOWNSEND: 15 minutes to half an hour,
13 perhaps even less depending on cross that precedes
14 me.

15 MR. ROBERTSON: Approximately the same as city,
16 but maybe less because of other questions asked.

17 JUDGE HILLIARD: Anybody else?

18 Go ahead.

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1 CROSS-EXAMINATION

2 BY

3 MR. LEVIN:

11 4 Q. Good morning. I'm Mitchell Levin, Assistant
5 State's Attorney in Cook County. Good morning,
6 Mr. LaGuardia, it's nice to see you again.

7 A. Nice to see you again.

12 8 Q. I want to direct your attention to your
9 rebuttal testimony that's already been admitted as
10 Exhibit 10 and specifically on Page 3 Question 6?

11 A. Yeah.

13 12 Q. The cost associated about delayed
13 decommissioning. Do you need a minute or two to
14 review that answer?

15 A. That's fine, go ahead.

14 16 Q. Okay. For purposes of my question, we're
17 going to make a substantial assumption and that
18 assumption is that ComEd has applied for license
19 extensions on some of its plants, doesn't matter
20 which ones for purposes of this question, and those
21 license extensions have been approved so that the
22 plants will be operating for some number of years

1 beyond what's the case today.

2 And given that assumption I wanted to ask
3 you about what impact that would have on some of
4 these costs, assuming that Edison chose to delay
5 decommissioning.

6 You lay out a number of factors here
7 which would increase the cost, and those factors are
8 that if decommissioning is delayed, the site must be
9 secured.

10 That's a fact you identified; is that
11 correct?

12 A. Yes, the site needs to be secured. I'm
13 confused in your statement that ComEd has gotten
14 license extensions approved?

15 Q. Right. In other words, the plants will be
16 operating for some time beyond which they're
17 licensed to operate today.

18 A. Is this an assumption?

16 Q. This is an assumption.

20 A. I'm sorry, forgive me. I thought you said
21 they had already accomplished that. Forgive me.

17 Q. This is theoretical.

1 A. Theoretical, thank you.

18 2 Q. Now, decommissioning by definition doesn't
3 start until the plant shuts down; is that correct?

4 A. That's correct.

19 5 Q. So if the plants are operating longer during
6 that time, there are no decommissioning costs,
7 correct?

8 A. Not during the period of operation, that's
9 correct.

20 10 Q. So that if decommissioning is delayed by the
11 plant operating, then the cost that you have
12 identified for maintaining the site in Answer No. 6
13 don't really come into play; is that right?

14 A. That's correct. If they're operating there
15 would be no decommissioning costs associated with
16 that.

21 17 Q. No cost for maintaining the site to a
18 certain standard as you have identified?

19 A. That's correct.

22 20 Q. A second cost that you've identified is that
21 there are training costs for personnel who may
22 retire, new personnel may need to be trained, so

1 there is turnover of personnel as there would be as
2 time passes; is that right?

3 A. During the operating period that's correct.

4 We're referring to the actual process of
5 decommissioning when there are these additional
6 costs after the plant shuts down and decommissioning
7 is begun which may be a delayed decommissioning
8 scenario or prop.

9 There are all these other maintenance and
10 surveillance costs and training costs that you're
11 referring to. Those would be incurred once the
12 plant shuts down.

23 13 Q. During the time that the plant is operating,
14 there would be a turnover of personnel, there would
15 be training costs and ComEd would recognize those;
16 those would be a factor they would take into account
17 in determining whether to extend the life of the
18 plant, correct?

19 A. I believe the training they would be doing
20 is primarily related to continued operation of the
21 plant through the license extension period. It
22 would not necessarily be directed towards

1 decommissioning.

24 2 Q. During the time that the plant is operating,
3 there wouldn't be any decommissioning costs for
4 training, would there?

5 A. Should not be, no, other than incidental
6 sending people to conferences to keep up with the
7 issues and that sort of thing; but no formal
8 extensive training program is normally performed.

25 9 Q. You have also identified an uncertainty with
10 regard to waste disposal. That's a cost that would
11 be incurred if decommissioning was delayed.

12 Is that something you have identified?

13 A. Yes, there's some substantial effect of
14 waste disposal cost increases in the delayed
15 decommissioning scenario.

26 16 Q. Okay. Again, if the plant is operating,
17 continuing with our assumption, that -- the
18 uncertainty in waste disposal would be a cost that
19 would already be factored into the decision about
20 whether to continue to operate the plant?

21 A. Generally that's correct, yes.

27 22 Q. Okay. Then a final factor that you have

1 pointed out in Answer 6 is the uncertainty about
2 regulation. That regulation with regard to waste
3 disposal could be tightened and that would affect
4 the cost of -- that could increase the cost of waste
5 disposal?

6 A. Yes.

28 7 Q. And, again, this is similar to the last
8 question, that in the decision to extend the life of
9 the plant, that is a decision that would already be
10 factored into ComEd's decision on whether to extend
11 the life of the plant or not?

12 A. Generally that's correct.

13 MR. LEVIN: I have no more questions.

14 MS. DOSS: I have a few questions.

15 MR. LEVIN: But my partner will.

16 CROSS-EXAMINATION

17 BY

18 MS. DOSS:

29 19 Q. Good morning, Mr. LaGuardia.

20 A. Good morning.

30 21 Q. Leijuana Doss on behalf of the People of
22 Cook County.

1 If you could refer to your rebuttal
2 testimony, again on Page 3, Lines 34 through 37, you
3 talk about low-level waste and the escalation of
4 costs?

5 A. Yes, I see that.

31 Q. Did you use the Gene Vance's study for the
6 calculation of low-level waste?

7 A. Yes, in our base studies, that's correct.

8 MS. DOSS: Okay. May I approach the witness?

9 BY MS. DOSS:

32 Q. Handing you what is marked as -- I believe
11 it will be Cook County Cross Exhibit 7?

12 JUDGE HILLIARD: Yes.

13 (Whereupon, Cook County Cross
14 Exhibit No. 7 was marked
15 for identification.)
16

17 BY MS. DOSS:

33 Q. Which is Cook County Cross Exhibit 7 which
18 is a response to ComEd -- to IIEC's data request --
19 IIEC's data request No. 2, Item 17, do you recognize
20 that Mr. Vance -- I mean Mr. LaGuardia, I'm sorry?
21

22 A. I believe I have reviewed this in the

1 Rider 31 case, yes.

34 2 Q. And isn't that the study that you used for
3 purposes of determining the costs for low-level
4 waste that ComEd would use in this particular
5 docket?

6 A. Yes.

35 7 Q. Okay. Now, in that study by Mr. Vance, do
8 you believe that he considered the cost drivers that
9 would increase the escalation for low-level waste?

10 A. I don't believe he addressed future
11 escalating -- escalation of costs. He did the costs
12 in, I believe, in 1996 dollars. He didn't do an
13 escalation of what the costs would be into the
14 future.

36 15 Q. Okay. Do you know if he used inflation rate
16 for es- -- for waste burial?

17 A. I don't have his back-up calculations here.
18 I can't answer that question.

37 19 Q. So you don't know if he estimated the
20 inflation rate to be 5 percent per year?

21 A. I don't recall that.

22 MS. DOSS: All right. No further questions.

1 And I move that Cook County Cross Exhibit
2 No. 7 be admitted into evidence.

3 MR. FELDMEIER: We'd have no objection.

4 JUDGE CASEY: Just so I'm clear, Cook County
5 Cross Exhibit 7 is a copy of direct testimony. I
6 don't see a study. Is there --

7 MS. DOSS: The direct --

8 JUDGE CASEY: Just references the study.

9 MS. DOSS: The direct testimony of Mr. Vance is
10 the study that ComEd used for purposes of
11 determining its cost estimates for low-level waste
12 in the '99 case and also in this particular case,
13 and that's the study that they have used since then
14 with the indication that the '96 study is still
15 their appropriate study to use.

16 JUDGE CASEY: I understand there may be a study,
17 but this is testimony.

18 JUDGE HILLIARD: Those volumes by Mr. Vance's
19 company which were exhibits in the '97 case, is that
20 the study that you are referring to?

21 MS. DOSS: I don't believe the study is
22 incorporated in those documents.

1 MR. FELDMER: Lejuana, could I ask you a
2 question, which data request.

3 MS. DOSS: It was IIEC's second data request,
4 Item No. 17.

5 MR. FELDMER: Our records show that we have a
6 different study that was attached but I seem to
7 recall that a different document may have
8 subsequently been sent out.

9 MS. DOSS: Right.

10 MR. FELDMER: Okay.

11 MS. DOSS: There was -- on August 9, apparently
12 you had sent out something differently before and
13 that is the attachment that was on the August 9
14 response.

15 MR. FELDMER: Okay. We have no objection to
16 its admission.

17 JUDGE CASEY: Absent objection, it will be
18 admitted.

19 But I wanted to be clear, this isn't a
20 study; this is direct testimony.

21 MS. DOSS: Your Honor, I would respectfully
22 object to that characterization.

1 I have asked Mr. LaGuardia was that the
2 study that he used and he did refer to it and said,
3 yes, he did look -- use that as the study provided
4 by Mr. Vance, and I think the record should so
5 indicate.

6 JUDGE CASEY: Well, the record indicates what the
7 witness said. I'm telling you, though, this is the
8 direct testimony of Gene Vance. You call it
9 whatever you want but that's what this is.

10 MS. DOSS: I have no further questions.

11 JUDGE CASEY: Okay.

12 JUDGE HILLIARD: Who's next?

13 MS. DOSS: Your Honor, I'm sorry, I would
14 suggest -- I'm Leijuana Doss for the County of Cook.

15 There was an initial -- in order that the
16 record will be complete, there was an initial
17 response to the data request, second data request of
18 IIEC, Item 17.

19 I'd like to admit that with cross -- Cook
20 County's Cross Exhibit 17 so both responses will be
21 in the record.

22 JUDGE CASEY: Did you ask him any questions on

1 cross regarding that?

2 MS. DOSS: It's the same response. It was --
3 apparently what had happened, the first response
4 Item No. 17, they attached the actual study and then
5 on -- they also attached the direct testimony of
6 Vance as the response for Item No. 17.

7 So in order for the record to be
8 complete, I would like to have this as well, and it
9 would be labeled as Cook County Cross Exhibit 7 so
10 it's not a new exhibit. It's just to make sure that
11 it's complete.

12 JUDGE CASEY: Can we take a look at it?

13 MS. DOSS: Sure.

14 JUDGE HILLIARD: Do you have any objection to
15 this, Mr. Feldmeier?

16 MR. FELDMEIER: Could I see a copy of the letter
17 that I sent you so I can get this straight in my
18 mind?

19 MS. DOSS: Sure.

20 JUDGE HILLIARD: Is this study referred to in the
21 direct testimony?

22 MS. DOSS: Yes.

1 JUDGE HILLIARD: All right. So you want to make
2 this -- incorporate this into Cross Exhibit 7?

3 MS. DOSS: In order to make the record complete.

4 JUDGE HILLIARD: All right. Just for purposes of
5 clarity -- Mr. Feldmeier has something to say.

6 JUDGE CASEY: Mr. Feldmeier, have you had an
7 opportunity to review the attachment?

8 MS. DOSS: Right -- yes, your Honor, and at this
9 time, Cook County will withdraw asking that this
10 response be introduced into evidence with Cook
11 County Cross Exhibit 7.

12 JUDGE CASEY: So you don't want the actual study
13 in?

14 MS. DOSS: No. This is not the correct study.
15 This is a 1994 study. So the correct study is the
16 1996 study.

17 JUDGE CASEY: So at some time do you plan on --
18 is that what you're -- you want to get in later?

19 MS. DOSS: No. I apologize for the confusion.

20 But the response that I ask be admitted
21 initially is the correct response and study that was
22 tendered by Gene Vance with respect to the studies

1 that were done and used by ComEd in this particular
2 docket.

3 JUDGE HILLIARD: What do you want admitted?

4 MS. DOSS: What I had admitted initially, and I
5 apologize.

6 JUDGE HILLIARD: What we have marked as Cross
7 Exhibit 7?

8 MS. DOSS: Right. I will not move to amend it.
9 It will stand as it is.

10 Thank you.

11 MR. FELDMEIER: We have no objection.

12 CROSS-EXAMINATION

13 BY

14 MR. WARREN:

38 15 Q. Good morning, Mr. LaGuardia. My name is
16 Larry Warren with the Attorney General's Office.

17 A. Good morning.

39 18 Q. I was following up with counsel's from the
19 county question line and there was one thing I was
20 kind of confused about.

21 When you have delayed decommissioning --
22 well, strike that.

1 You said that decommissioning doesn't
2 start until the plant stops operation?

3 A. That's correct.

40 4 Q. Okay. If you have delayed decommissioning,
5 the plant will stop operation but decommissioning
6 then will start -- will commence at some point after
7 the stopping of the operation; is that correct?

8 A. That's right. The physical process begins
9 when the plant shuts down.

41 10 Q. The physical process begins?

11 A. After the plant shuts down.

42 12 Q. Okay. During the period of the time when
13 the plant shuts down and the decommissioning process
14 starts, what's that period referred to?

15 A. Planning.

43 16 Q. That's referred to as planning?

17 A. The planning phase of the decommissioning
18 process.

44 19 Q. So it's referred to as a planning phase for
20 the decommissioning costs?

21 A. That's correct. We break that up in several
22 periods.

1 That's period one which is engineering
2 and planning and preparations.

45 3 Q. Is it your testimony that that period, that
4 planning period, is also decommissioning costs --
5 included in decommissioning costs?

6 A. Very definitely so. The NRC has recognized
7 that as well as a decommissioning expense.

46 8 Q. I'm sorry, would you say that again?

9 A. I'm sorry, the NRC has recognized that phase
10 as an allowable decommissioning expense.

47 11 Q. Okay. I want to refer you to Page 9 of your
12 rebuttal testimony and specifically to Line 34 and
13 35 where you state the substantial damage caused by
14 the removal of radiological components will
15 essentially render the remaining structures
16 unusable; is that correct?

17 A. That's correct.

48 18 Q. Okay. Now, could we go to page -- or to
19 your direct testimony, Page 8.

20 A. Yes.

49 21 Q. Then Question 11, you said that there were
22 cost estimates for radiological and nonradiological

1 decommissioning that were prepared by TLG for the
2 prior Rider 31 proceedings and you answered -- and
3 that they're still reasonable, and you answered yes
4 to that question; is that correct?

5 A. Yes.

6 MR. WARREN: Okay. Your Honor, I'm kind of
7 confused, I will admit.

8 Are these studies a part of the record
9 already or not? I kind of got lost on that -- in
10 the discussion you had a while ago.

11 I thought they weren't. I thought they
12 had to be something that had to be admitted.

13 JUDGE CASEY: When you say these studies which
14 ones are we referring to now?

15 MR. WARREN: The decommissioning studies that
16 were prepared by this witness for the Rider 31,
17 the '99 Rider 31 proceeding that they have said were
18 still -- in his testimony has said that are still
19 pertinent for this proceeding.

20 JUDGE CASEY: I believe the Examiners' ruling
21 previous was that the Examiners would take
22 administrative notice of the testimony and exhibits

1 that were in the previous dockets, so they are --

2 MR. WARREN: They're already part of the record
3 then? I don't have to have them as exhibits.

4 MR. FELDMEIER: Examiner --

5 MR. WARREN: Cross exhibits then.

6 MR. FELDMEIER: I have moved for their admission
7 into the record in this docket this morning.

8 JUDGE HILLIARD: We haven't --

9 MR. FELDMEIER: That motion has not been ruled
10 on.

11 JUDGE HILLIARD: Yeah.

12 BY MR. WARREN:

50 13 Q. Okay. Then I want to refer you then to a
14 study that you prepared for LaSalle County station
15 Units 1 and 2 that were prepared -- they're labeled
16 TSL-5 prepared January 1997 by TLG Services.

17 Are you familiar with this study?

18 A. Yes, I am.

51 19 Q. And this is the study that did you prepare
20 and it is one of the ones that you're referring to
21 in your testimony here in answer to Question 11 of
22 your direct testimony; is that correct?

1 A. That's correct.

52 2 Q. Okay. Could you turn to -- it's

3 Section 4.4.6. It's Page 11 of 24 of Section 4.

4 A. Yes.

53 5 Q. Okay. Would you -- and that section is

6 titled site conditions following decommissioning; is

7 that correct?

8 A. Yes, it is.

54 9 Q. Would you read that -- it's a relatively

10 short paragraph.

11 Would you read that, please?

12 A. Following the decommissioning effort, the

13 structures and remaining systems will meet the

14 specified NRC site release limit.

15 The NRC involvement in the

16 decommissioning process typically will end at this

17 point.

18 Local building codes, state environmental

19 regulations and ComEd's own future plans for the

20 site will dictate the next step in the

21 decommissioning process.

22 There is clearly a potential for

1 alternative uses for the site, site, which may or
2 may not require the removal of the existing
3 structures.

4 TLG assumed the removal of all plant
5 systems and all of the above grade structures from
6 the site. However, these nonradiological costs are
7 not part of this study and are detailed in a
8 separate report.

55 9 Q. Okay. Thank you.

10 Now, if you could pull out the equivalent
11 report for the Braidwood Nuclear Power Station,
12 Units 1 and 2, and this again is -- this is a report
13 that was prepared by TLG Services January 1997
14 labeled TSL-8.

15 And do you recognize this report?

16 A. Yes, I do.

56 17 Q. And is this one of the reports that you are
18 referring to in the answer to Question No. 11 of
19 your direct testimony?

20 A. Yes.

57 21 Q. Okay. Could you also turn to Section 4.4.6
22 of that report?

1 A. Yes.

58 2 Q. Rather than going through and reading it
3 again, would you agree that this language is
4 precisely the same as the language that you read in
5 the LaSalle report just a few minutes ago?

6 A. Yes.

59 7 Q. Okay. Thank you.

8 Now, call your attention to the
9 equivalent report for Dresden Nuclear Power
10 Stations, Units 2 and 3, also prepared by TLG
11 Services January 1997 and labeled TSL-3, and do you
12 recognize this report?

13 A. Yes, I do.

60 14 Q. And is this one of the reports that you were
15 referring to in your answer to Question No. 11 in
16 your direct testimony?

17 A. Yes, it is.

61 18 Q. And could you -- refer you to Section 4.4.6
19 of that report, and again, is the -- does that
20 paragraph contain the same language as the one that
21 you read -- the first one that you read into the
22 record?

1 A. Yes.

62 2 Q. Thank you. Now refer you to Quad Cities
3 Nuclear Power Station report. It's also prepared by
4 TLG Services, January 1997, it's labeled TSL -4.
5 Do you recognize this report?

6 A. Yes, I do.

63 7 Q. And is this one of the reports that you're
8 referring to in your answer to Question 11 of your
9 direct testimony?

10 A. Yes.

64 11 Q. And I would like to you to turn to
12 Section 4.4.6 of this report.

13 A. Yes.

65 14 Q. Got that?

15 Is the language in that paragraph the
16 exact language that you read into the record for the
17 LaSalle Station and also is the same for all the
18 other ones that we have gone through so far?

19 A. Yes.

66 20 Q. And finally call your attention to the
21 report for the Byron Nuclear Power Station, Units 1
22 and 2 also prepared by TLG Services, January 1997

1 labeled TSL-7?

2 A. Yes, I have that.

67 3 Q. Are you familiar with this report?

4 A. Yes, I am.

68 5 Q. Is this one of the reports that you referred
6 to in the answer to Question No. 11 of your direct
7 testimony?

8 A. Yes.

69 9 Q. And I would like to call your attention to
10 Section 4.4.6 of this report.
11 Did you find that?

12 A. Yes, I have it.

70 13 Q. And is that language exactly the same as the
14 language that you read into the record and was the
15 same as all the other reports?

16 A. Yes.

71 17 Q. Okay. Thank you.
18 When you conducted or made your
19 decommissioning cost estimates, they included both
20 radiological and nonradiological costs in those
21 estimates; is that correct?

22 A. Yes, there's a separate report for the

1 nonradiological portion of the decommissioning
2 process.

72 3 Q. The -- in your Schedule TSL-1 that's
4 attached to your direct testimony, is this the one
5 that you were referring to that there's a separate
6 schedule?

7 A. Yes.

73 8 Q. It shows the breakdown and then it shows the
9 total costs; is that correct?

10 A. Yes.

74 11 Q. And then you have used these total costs
12 when you were figuring up your decommissioning cost
13 estimates, that's what -- my question basically is
14 the decommissioning radiological and nonradiological
15 costs were both included when you were coming up
16 with your decommissioning cost estimates?

17 A. That's correct.

18 MR. WARREN: Thank you. We have no further
19 questions, your Honor.

20 JUDGE HILLIARD: Next.

21 MR. ROBERTSON: I can go next.

22 MR. REVETHIS: Yes, we would have cross,

1 Mr. Examiner.

2 JUDGE CASEY: Mr. Robertson, you can go next.

3 CROSS-EXAMINATION

4 BY

5 MR. REVETHIS:

75 6 Q. Good morning, Mr. LaGuardia.

7 A. Good morning.

76 8 Q. I'm Steve Revethis, and I'm staff counsel

9 representing the staff in this proceeding and we

10 have a few questions for you regarding your

11 testimony and some data requests and responses that

12 have been proffered to you. I'll let you know ahead

13 of time what areas we'll be touching upon.

14 A. Okay. Thank you.

77 15 Q. First of all, sir, would you kindly

16 reference Page 10, Lines 13 through 18 of your

17 rebuttal testimony, if you would, please?

18 A. Yes.

78 19 Q. Okay. There, sir, in your rebuttal

20 testimony at line -- I'm sorry, at Page 10, Lines 13

21 through 18, you state that the most cost effective

22 approach is to perform site restoration immediately

1 after the completion of radiological decommissioning
2 work.

3 Is that correct, sir?

4 A. That's correct.

79 5 Q. Sir, would you at this time, if you would,
6 if you have it available, would you kindly reference
7 Staff Data Request ENG 1.9, if you have that
8 available. Otherwise we can provide it.

9 A. I don't have that in front of me.

10 MR. FELDMER: Steve, I think we do. Do you
11 have an extra copy?

12 BY MR. REVETHIS:

80 13 Q. Like to take a moment to review that, sir.

14 A. Thank you. Yes, go ahead.

81 15 Q. Sir, in response to Staff Data Request ENG
16 1.9, you indicate that you have not performed any
17 cost study that supports this statement; is that
18 correct?

19 A. That's correct.

82 20 Q. And, sir, you further state in response to
21 ENG 1.9, that in your experience you believe that
22 the cost of securing and maintaining a

1 radiologically decommissioned site would exceed the
2 benefit a company would receive by delaying site
3 restoration; is that also correct?

4 A. That's correct.

83 5 Q. Now, sir, if a nuclear unit is placed in
6 SAFSTOR, S-A-F-S-T-O-R, this essentially means that
7 the unit is placed in a state such that it can
8 safely await -- wait until some date in the future
9 when it will be decontaminated and decommissioned;
10 is that a fair statement?

11 Is that correct?

12 A. Yes.

84 13 Q. Now, during the time period that the unit is
14 in SAFSTOR, the site must be maintained and made
15 secure from intruders; isn't that correct?

16 A. Yes.

85 17 Q. Now, if a nuclear plant owner decided that
18 after radiological decommissioning, they wanted to
19 wait a few years before removing the remaining
20 decontaminated structures, the site would need to be
21 maintained and secured during the interim; is that
22 also correct?

1 A. Yes.

86 2 Q. Would many of the activities involved in
3 maintaining and securing a decontaminated nuclear
4 plant site be the same as those involved in securing
5 and maintaining a site in SAFSTOR?

6 A. Would you repeat the question? I'm sorry.

87 7 Q. Sure.

8 Would a number of the activities involved
9 in maintaining and securing a decontaminated nuclear
10 plant site be the same as those involved in securing
11 and maintaining a site in SAFSTOR?

12 A. Yes. Many of the activities would be the
13 same.

88 14 Q. Sir, would you at this time kindly refer to
15 ComEd Exhibit TSL-7, the Byron cost study, if you
16 would.

17 A. I have it in front of me.

89 18 Q. I'll give you a more specific reference.

19 Kindly refer to Appendix D, on
20 Pages 4 and Pages 12. If you want to take a moment
21 to review those. That's Appendix D, Pages 4 and 12.

22 A. B?

90 1 Q. D as in David.

 2 A. Yes, go ahead.

91 3 Q. Sir, on these two pages, Pages 4 and 12, it

 4 is indicated that if the Byron units were placed in

 5 SAFSTOR, the annual cost to maintain and secure the

 6 units during dormancy would total about \$6.7 million

 7 per year; is that correct?

 8 A. That's correct, yes.

92 9 Q. Now, and of the \$6.7 million annual cost for

 10 Byron, approximately \$3.9 million is property taxes?

 11 A. Yes.

93 12 Q. And 1.5 million is maintenance staff fees?

 13 A. Yes.

94 14 Q. And \$350,000 is the NRC fee?

 15 A. Yes.

95 16 Q. And \$246,000 is site security costs?

 17 A. Yes.

96 18 Q. And \$104,000 is health physics fees?

 19 A. Yes.

97 20 Q. And \$100,000 is disposal of contaminated

 21 waste fees; is that correct?

 22 A. Yes.

98 1 Q. Now, sir, would you expect that -- expect
 2 these costs to be significantly different at ComEd's
 3 other nuclear stations or roughly the same?
 4 A. Other than tax issues, I think they'd be
 5 roughly the same. I think they're probably close.
 6 Let me check that.

99 7 Q. You can take a moment, sir.

 8 A. Approximately the same is a fair answer.

100 9 Q. Now, Mr. LaGuardia, is it fair to say that
 10 you would expect that security at a nuclear site in
 11 SAFSTOR would need to be somewhat tighter than a
 12 site that had been decontaminated?
 13 A. It would be tighter, did you say?

101 14 Q. Well, yes, more stringent.

 15 A. Than a plant that had been decontaminated?

102 16 Q. Right.

 17 A. Security would be -- it would be greater
 18 partly because the fuel is there, still stored on
 19 site, yes.

 20 MR. FELDMEIER: Steve, could I ask you one
 21 question, when you say decontaminated, you mean
 22 where radiological decommissioning has been

1 performed?

2 MR. REVETHIS: Yes, that's correct. That's what
3 we're referencing.

4 BY MR. REVETHIS:

103 5 Q. Is your answer the same, sir? I mean you
6 understood?

7 A. Yes.

104 8 Q. Would you agree that it would take fewer
9 maintenance staff to maintain a site that had been
10 radiologically decontaminated than to maintain a
11 plant in SAFSTOR?

12 A. Yes, that's correct.

105 13 Q. Would you agree that to secure and maintain
14 a site that has been decontaminated it would not be
15 necessary to pay the NRC fees?

16 A. If I may go back and restate my answer.

106 17 Q. To the previous question?

18 A. The previous question.

19 For maintenance, the maintenance of
20 building structures would be essentially the same in
21 both cases.

22 If the plant is in SAFSTOR, there would

1 be additional maintenance required, assuming it had
2 not been decontaminated, to maintain the integrity
3 of the systems and structures that had been left in
4 place -- systems and structures that had been left
5 in place still containing radioactivity; so you'd
6 have more maintenance to make sure there was no
7 leakage from systems as compared to a plant that had
8 been decontaminated but not dismantled.

9 So there would be a difference in
10 maintenance costs of those two examples.

11 Would you repeat your last question? I'm
12 sorry.

107 13 Q. I'll go ahead and repeat the next question.
14 Start fresh.

15 Would you agree that to secure and
16 maintain a site that has been decontaminated, it
17 would not be necessary to pay the NRC fees?

18 A. That's correct.

108 19 Q. And it would not be necessary to pay the
20 health physics fees or contaminated waste disposal
21 fees?

22 A. That's also correct.

109 1 Q. So absent those costs that I have just
 2 mentioned, the NRC fees, the health physics fees and
 3 the contaminated waste disposal fees, absent those
 4 costs, and excluding property taxes also, the annual
 5 maintenance and security costs would be about \$2.25;
 6 is that correct?

 7 A. I'll accept your math.

110 8 Q. Would you, subject to check?

 9 A. Subject to check.

111 10 Q. Sir, now, up to this point the costs we have
 11 been talking about are the annual costs of securing
 12 and maintaining a site.

 13 I would ask you -- I would like to ask
 14 you would there be capital costs to securing a site
 15 that had been radiologically decontaminated?

 16 A. I think I'd put them more in a maintenance
 17 category, repairing fences and replacing security
 18 equipment perhaps. There should be no major
 19 capital, new capital expenditure.

 20 MR. REVETHIS: Okay. Thank you so much, sir, we
 21 have nothing further.

 22 We would at this time ask, and if you

1 would like, I'll lay a foundation, we would like --
2 the staff would request the admission of Staff Data
3 Request ENG 1.9 and Mr. LaGuardia's response.

4 Lay a foundation if you feel that's
5 necessary.

6 MR. FELDMEIER: No objection.

7 JUDGE HILLIARD: If there's no objection, then
8 there's no foundation necessary.

9 MR. REVETHIS: Fine. Thank you so much.

10 JUDGE HILLIARD: We need to mark the exhibit. We
11 need to give it a name.

12 MR. REVETHIS: Right.

13 JUDGE CASEY: Staff Cross No. 8.

14 MR. REVETHIS: We're going straight through in
15 the numbers and we'll just identify it as Staff
16 LaGuardia No. 8 or Staff Cross No. 8?

17 JUDGE HILLIARD: Staff Cross 8.

18 (Whereupon, Staff Cross
19 Exhibit No. 8 was marked
20 for identification.)

21 MR. REVETHIS: We would ask that the admission of
22 Staff Cross Exhibit 8 which is, in fact, a Staff

1 Data Request 1.9 along with Mr. LaGuardia's response
2 to same.

3 JUDGE HILLIARD: Submitted copy so marked to the
4 reporter, three copies.

5 JUDGE CASEY: Mr. Robertson.

6 MR. ROBERTSON: Thank you.

7 CROSS-EXAMINATION

8 BY

9 MR. ROBERTSON:

112 10 Q. Good morning, Mr. LaGuardia.

11 A. Good morning.

113 12 Q. With regard to the issue of security at
13 either a nonradiological decommissioned site or at a
14 SAFSTOR site, if the utility installed another
15 generating unit on that site, would you expect they
16 would maintain security for that unit?

17 A. Yes, they probably would.

114 18 Q. Now, would you refer to Page 4 of your
19 rebuttal testimony.

20 A. Okay.

115 21 Q. And in your response to Question No. 8 at
22 the bottom of that page, you talk about stations

1 where immediate decommissioning was undertaken; is
2 that correct?

3 A. Yes.

116 4 Q. Now, is it true that Rancho Seco and San --
5 is it Onofre?

6 A. Onofre.

117 7 Q. Were placed in SAFSTOR status initially?

8 A. Initially they were, yes.

118 9 Q. And do you know how long they were in
10 SAFSTOR status?

11 A. 10 to 12 years from the date of shutdown,
12 just going by memory.

119 13 Q. And when did decommissioning begin on these
14 two units?

15 A. Rancho Seco began limited decommissioning --
16 active decommissioning but to the extent they could
17 with funding constraints, about two years ago, two
18 and a half years ago.

19 San Onofre began active physical
20 decommissioning last year.

120 21 Q. Now, do you know how many units are
22 currently formerly licensed to operate commercial

1 generating units?

2 A. Continuing to operate?

121 3 Q. No, formerly, no longer licensed?

4 A. Formerly, I'm sorry.

5 (Change of reporters.)

6 A. In the 10 or 11 plants I don't have the

7 exact count we would have to go through each one.

122 8 Q. Would you agree or disagree that the CEVTR

9 generator in Barnwell, South Carolina, is that

10 currently in SAFSTOR?

11 A. It was in SAFSTOR and now they are

12 dismantling the unit.

123 13 Q. And now would you agree or disagree that

14 that unit went into that status after its closure in

15 1967?

16 JUDGE CASEY: When you say that status, do you

17 mean SAFSTOR?

18 MR. ROBERTSON: Yes.

19 THE WITNESS: It was placed in SAFSTOR about

20 1967, that's correct.

21 BY MR. ROBERTSON:

124 22 Q. And would you agree or disagree that Dresden

1 Unit No. 1 is currently in SAFSTOR?

2 A. Yes.

125 3 Q. And that unit was placed in SAFSTOR in 1978?

4 A. Yes. Of course there has been some

5 decommissioning work performed at Dresden 1 as well .

126 6 Q. Would you agree that Fermi Unit 1 in

7 Newport, what is that Michigan?

8 A. Michigan.

127 9 Q. Was placed in SAFSTOR status in 1972?

10 A. That's about the right time, yes.

128 11 Q. And is that currently in SAFSTOR status?

12 A. They are beginning to start decommissioning

13 work on Fermi 1.

129 14 Q. Would you agree or disagree that GECBWR

15 generating unit in Pleasantville, California was

16 placed in SAFSTOR status in 1963?

17 A. That's about the right time, yes.

130 18 Q. And is that currently in SAFSTOR status?

19 A. As far as I know that is still in SAFSTOR,

20 yes.

131 21 Q. And would you agree that Humbolt Bay No. 3

22 in Eureka, California was placed in SAFSTOR status

1 in July -- approximately 1976?

2 A. That's about right, yes.

132 3 Q. Is that unit currently in SAFSTOR status?

4 A. They have begun to do some limited

5 decommission work, remove the stack and they took

6 care of a water intrusion problem. Planning to go

7 into active decommissioning within two years.

133 8 Q. Do you agree that the unit in LaCrosse and

9 Genoa, Wisconsin was placed in SAFSTOR status in

10 1987?

11 A. Yes.

134 12 Q. And is that unit currently still in SAFSTOR

13 status?

14 A. Yes, its.

135 15 Q. Now, would you agree or disagree -- strike

16 that.

17 Would you agree that Peachbottom No. 1 in

18 Peachbottom, Pennsylvania was placed in SAFSTOR

19 status in approximately 1974?

20 A. That's about right, yes.

136 21 Q. Is that unit currently in SAFSTOR status?

22 A. Yes.

137 1 Q. And I think we've already established that
 2 Rancho Seco and San Onofre, Seco was placed in
 3 SAFSTOR status in 1989; is that correct?
 4 A. That's about the right time to make that
 5 determination.

138 6 Q. And San Onofre was placed in SAFSTOR status
 7 in approximately 1992?
 8 A. About the right time frame, yes.

139 9 Q. And those units -- and of course it's true
 10 that Zion 1 and Zion 2 for Commonwealth Edison are
 11 currently in SAFSTOR status; is that correct?
 12 A. Yes.

140 13 Q. And those were placed in that status in
 14 approximately 1997 and 1996 respectively; is that
 15 true?
 16 A. Yes.

141 17 Q. Now, some of the units on this list are
 18 relatively large generating units, would you agree
 19 to that? Like Dresden, 700 megawatts?
 20 A. Dresden is how much?

142 21 Q. 700?
 22 A. D1, no. Dresden 1 is not.

143 1 Q. I'm sorry, I misread, you are correct. I'm
 2 looking at the wrong number. I withdraw the
 3 question.

 4 Now, would you turn to Page 9 of your
 5 rebuttal testimony?

 6 A. Yes.

144 7 Q. Now, you used the term at Line 23 stations,
 8 and is there a difference between a station and a
 9 plant site?

 10 A. No, not really, not in this context.

145 11 Q. Do you know how large the Commonwealth
 12 Edison plant sites are as far as total area in
 13 acres?

 14 A. I don't have those figures at my fingertips,
 15 no.

146 16 Q. Do you know any of the acreages acres?

 17 A. I don't know that off the top of my head,
 18 it's in our back up calculations, but I don't have
 19 those specific acreages.

147 20 Q. Can you give me an approximate, thousands,
 21 several hundred acres, several thousand acres?

 22 A. It's on the order of a thousand acres, I

1 don't have the exact.

148

2 Q. Given -- is it your understanding that with
3 all else equal, when the utility decides to locate a
4 generating station in its service territory it
5 attempts to locate that station on the basis of
6 where power is needed on its system, and -- in other
7 words, does it try to site the station to correspond
8 to its transmission system, to correspond to loads
9 on its system, or are there specific reasons why
10 they put a plant at a particular location?

11 A. Some of those types of considerations it
12 would go through, yes.

149

13 Q. Would you agree that the sites of the
14 Commonwealth Edison nuclear generating stations,
15 that they would lend themselves, given their
16 geographic and physical relationship, to the Edis on
17 transmission system to continued use as generating
18 sites?

19 MR. FELDMEIER: I'm going to object to this just
20 that it's outside of the scope of his testimony. He
21 did not present any testimony on station siting.

22 MR. ROBERTSON: Well, he's talked about the need

1 to maintain security at these sites, and how the
2 cost of doing so would be prohibitive into
3 perpetuity. And I think we are entitled, and he's
4 already admitted, that if Edison locates a
5 generating plant on one of these sites, they will
6 have to maintain security there or are likely to do
7 so anyway. So I would like to know whether or not
8 he thinks that these sites would lend themselves to
9 the location of generating plants.

10 MR. FELDMER: I just think that's a different
11 issue.

12 JUDGE CASEY: I think just because we use the
13 word site, doesn't mean that we can ask about the
14 rationale for putting a plant some place. I think
15 we are talking about two different things here,
16 aren't we? Are we talking about proximity because
17 of the cost of providing security, or proximity as a
18 reason to establish a plant at a particular spot in
19 the first place?

20 MR. ROBERTSON: Well, he's talked about the use
21 of these sites after they are decommissioned, and I
22 just want to find out -- I'm not trying to get into

1 his knowledge about location of generating plants,
2 whether he believes it's likely that these sites
3 will continue to be used as generating station sites
4 in the future.

5 JUDGE CASEY: So would that -- is that a fair
6 summary of the what the question is?

7 MR. ROBERTSON: In fact, that's a better
8 question.

9 BY MR. ROBERTSON:

150 10 Q. Would you agree with that?

11 A. It certainly would be looked at at the time
12 the decision was going to be made as to a site
13 suitability. All of these evaluations are site
14 specific, and they effect -- they require a cost
15 effective analysis. I can't make a generalization.

151 16 Q. When the nuclear plants are decommissioned,
17 are the electric utilities required to remove from
18 that site the substations and transformers and
19 switch guards that have been installed for the
20 generator?

21 A. Generally not those remain part of system,
22 the transmission and distribution system.

1 Q. And that is a substantial part of the plant
2 investment at the site?

3 A. That is not necessarily the correct
4 characterization. The cost for the substation or
5 station, rather, the transformers and such cost for
6 removal is not all that great. It's an important
7 part of the overall system, certainly to put this
8 system in in the first place, the cost would be a
9 quite high expense, meaning bringing the lines to
10 and from the station. But that's not part of the
11 decommissioning -- that's not a major part of the
12 decommissioning experience.

13 MR. ROBERTSON: I have nothing further.

14 JUDGE CASEY: Is there any other cross?

15 Mr. Townsend?

16 MR. NORINGTON: Can I just -- I have a statement.
17 CUB propounded a seventh set of data request they
18 are not due to be responded to until this upcoming
19 Monday, in all fairness to Com Ed in light of the
20 disputes that we are having over the past week or
21 two. Item No. 88, subparts A, B, C, D and E
22 specifically pertain to Mr. LaGuardia's direct

1 and/or rebuttal testimony.

2 And we would like to reserve the right to
3 respond or provide supplemental testimony based on
4 the responses to these requests, which are for
5 specific documents that were referred to in his
6 testimony.

7 JUDGE CASEY: Do we know whether or not those
8 data requests are complete, the answers to those
9 data requests are complete?

10 MR. FELDMER: No, the answers are due on
11 Monday, I planned on responding to those answers on
12 Monday. We only received those this week, so I
13 don't think it's the appropriate practice to receive
14 a data request at such a late date. We will respond
15 in the very short time frame that we've been given,
16 but I don't think that's a reason for extending the
17 introduction of testimony.

18 JUDGE CASEY: Counsel, absent the receipt of the
19 answers to those data requests, do you have any
20 cross examination?

21 MR. NORINGTON: No, your Honor. I would also
22 like to just state for the record that the rebuttal

1 testimony wasn't received until August 15th, so the
2 data request were in appropriate response -- were
3 filing in appropriate timing response to rebuttal
4 testimony that was received.

5 MR. FELDMEIER: If I can be heard briefly. I
6 don't have a copy of the requests with me, if I
7 could just review them for a second, maybe we can
8 respond to any questions that are directed at
9 Mr. LaGuardia, because the request for documents,
10 obviously we don't have the documents here with us.

11 MR. NORINGTON: The requests are for documents,
12 each of the subparts that I referenced were for
13 documents that were referenced in his testimony.

14 MR. FELDMEIER: If I could just clarify one thing
15 counsel said, the requests are not for specific
16 documents that Mr. LaGuardia referred to, they are
17 for general categories of documents about things
18 that he said.

19 MR. NORINGTON: They are specific documents. We
20 are not talking about thousands and thousands of
21 pages that need to be reviewed. There are specific
22 documents.

1 JUDGE CASEY: Just so we are clear, you began
2 making a motion, what exactly is your motion again?

3 MR. NORINGTON: Just requesting the opportunity
4 to provide supplemental testimony once we receive
5 the documents that have been requested. The
6 documents are not due to be produced until Monday,
7 and that date was set out of fairness to
8 Commonwealth Edison. We have received data requests
9 from them that asked for a one week turn around, we
10 asked for a one week turn around on these.

11 JUDGE CASEY: Do we anticipate that those
12 documents will be delivered to counsel on Monday?

13 MR. FELDMEIER: I've spoken with Mr. LaGuardia
14 about the collection of documents and the documents
15 will be forwarded to me. It will be Monday, it may
16 be very late in the day and additional materials may
17 come in afterwards. This request was mailed to us
18 Monday morning, we received it on Wednesday. We've
19 been doing our best to respond, but this is an
20 extraordinarily compressed time frame that we are
21 working with here.

22 I understand that the testimony was filed

1 on August 14th, but people were aware of the
2 schedule and the short amount of time between
3 rebuttal testimony and hearing for a long time.

4 MR. NORINGTON: Nonetheless, we couldn't propound
5 requests until we received the rebuttal testimony.
6 I understand that the schedule is compressed, but we
7 are all operating under those same restraints and
8 confines. There are some documents that are still
9 being produced throughout this week.

10 MR. TOWNSEND: Mr. Examiner, for the record,
11 again, there is no statutory deadline within the
12 context of this case. If the schedule is compact,
13 it's due to Commonwealth Edison's request that this
14 be expedited. So for Edison at this point to
15 complain that it's prejudiced by the compacted
16 schedule seems a little bit inequitable. It's a
17 problem of their own making.

18 MR. NORINGTON: We are merely asking for the
19 opportunity to provide a full, accurate response to
20 the testimony that has been filed.

21 JUDGE CASEY: And assuming that you get that data
22 on Monday, when would you expect that your

1 supplemental testimony would be filed.

2 MR. NORINGTON: I would ask for at least a week
3 from receipt of the documents, at the outset. I'm
4 just being told that three days would be sufficient
5 for our witness to respond.

6 JUDGE HILLIARD: Three days?

7 MR. NORINGTON: Three days from the receipt of
8 the documents.

9 MR. HANZLIK: Since Mr. Townsend felt compelled
10 to comment, I would like to comment as well. We are
11 not arguing that we created a situation that has
12 brought this about. As I tried to establish in the
13 very first time we met, discovery at the Commission
14 seems to be a cascade of one request after another.
15 And unless we establish deadlines, we are always
16 going to be in these problems that we are facing
17 here today where there are last minute data requests
18 and last minute responses.

19 No deadlines were set and as you know we
20 responded to seven and eight sets of data requests
21 from CUB and Cook County, alone not counting the
22 other data requests. Now I think it's totally

1 inappropriate to extend the filing of testimony, to
2 have another whole round of testimony, because if
3 they put in testimony we should have the right to
4 respond to that testimony and the case will never
5 end because there will be discovery on that
6 testimony. There has to be some cut offs, that is
7 fair reasonable.

8 The discovery has been extensive, we have
9 complied in good faith right along the way, and
10 these documents, which I believe they could probably
11 obtain through their own sources, should not be the
12 cause for providing for another round of testimony,
13 reply testimony, and cross examination. This case
14 will never end.

15 MR. NORINGTON: We are merely asking for the
16 opportunity to provide supplemental testimony in
17 response to the rebuttal testimony that they've --
18 we are asking specifically information that has been
19 referenced or relied upon in the rebuttal testimony.
20 With respect to data requests, I think Com Ed has
21 been just as dilatory in filing its request, we just
22 received requests just last week.

1 So it goes both ways, and again the
2 schedule is compacted because Com Ed asked for it to
3 be compacted. My understanding is they wanted this
4 whole matter wrapped up by the end of the year.
5 Well, we have months remaining before the end of the
6 year comes about. We are just asking for a fair
7 shot to respond fully and sufficiently to the
8 information that is put -- has been put out there.

9 MS. DOSS: Your Honor, just for the record, Cook
10 County only sent out one set of data requests, and
11 that was early in the proceeding. We have not done
12 duplicate data requests for the purposes of
13 facilitating the process.

14 MR. FELDMEIER: I think Mr. Hanzlik meant to
15 refer to the City when he referenced eight sets.

16 MR. JOLLY: The City has submitted three data
17 requests not seven or eight.

18 MR. FELDMEIER: Right. He said the City and CUB
19 has combined submitted eight, now the number is up
20 to ten with the seventh set from CUB.

21 MR. JOLLY: Whatever the number is, this is a
22 major case which involves billions of dollars. And

1 we discussed this at the very first hearing and
2 there were no time limits set, and I think to bring
3 this up at this point is moot. That decision wasn't
4 made at this time and why we are having this
5 argument now I don't understand.

6 MR. HANZLIK: That's not the issue, the issue is
7 a request for another round of testimony. And this
8 particular request has not been shown to require
9 another round of testimony. These are just some
10 background documents that they are asking for.

11 There has been no establishment that this
12 witness even relied on those documents, there hasn't
13 been any cross of him with respect to the importance
14 of those documents. And what they are asking for is
15 another round of testimony, another round of reply
16 testimony, another round of cross examination
17 because how can anybody submit testimony without an
18 opportunity for cross.

19 This is a schedule that was set by the
20 hearing examiners, it was not the schedule that we
21 requested, it was a schedule that staff requested.
22 This is a case where we understand the Commissioners

1 have said they would like concluded. There are
2 policy issues involved in restructuring the electric
3 industry in Illinois. These are a few pieces of
4 paper. They asked for them on Monday, we will
5 produce them in that timely fashion. They've never
6 said that that would lead to more testimony.

7 JUDGE CASEY: Can we see what the data request
8 is?

9 MR. NORINGTON: We have an alternative proposal.
10 It would be either to make Mr. LaGuardia available
11 by telephone or just simply introduce those
12 responses.

13 JUDGE HILLIARD: I didn't hear the last part.

14 MR. NORINGTON: Introduce the responses into
15 evidence once the responses would come in would be
16 the second alternative.

17 JUDGE HILLIARD: Introduce the documents into
18 evidence when you receive them?

19 MR. NORINGTON: Right.

20 JUDGE HILLIARD: And what about commenting on the
21 documents?

22 JUDGE CASEY: Or do you believe that the

1 documents speak for themselves?

2 MR. NORINGTON: We may decide not to enter them
3 either. We are trying to facilitate some way of
4 getting to the point of this without protracting
5 everything.

6 JUDGE HILLIARD: We understand that and we
7 appreciate it. But is it your proposal that you
8 would want the option to admit the documents and
9 that the documents would speak for themselves and
10 you won't need any rebuttal testimony?

11 MR. NORINGTON: Yes.

12 JUDGE HILLIARD: We can accomplish that during
13 the time parameters we've set for the hearing, it
14 would seem to me.

15 MR. NORINGTON: Yes.

16 MR. HANZLIK: I'm not sure I quite understand the
17 proposal, but if I understand they want a ruling now
18 that the documents they haven't seen and certainly I
19 haven't seen and I'm not sure --

20 JUDGE HILLIARD: We are going to reserve whether
21 they are admissible or not, and you can raise any
22 objections that you have to their admissibility once

1 they try to admit them. But what we are trying to
2 do is short cut the problem of testimony after the
3 parameters we've set for the hearing. It seems to
4 me to be a reasonable proposal at this point in
5 time.

6 MR. HANZLIK: Take a look the what documents.

7 JUDGE HILLIARD: And then you can make your
8 arguments about why they shouldn't come in if, in
9 fact, they so choose to try to bring them in.

10 MR. HANZLIK: Just to finish our remarks, this
11 was a request that they asked for responses on
12 Monday, next Monday, they asked for that. This is
13 the first notice that we've had that they are going
14 to use that now to request an extension in the
15 provision of testimony. I find the procedure --

16 JUDGE HILLIARD: Testimony is out, all we are
17 talking about is documents.

18 MR. NORINGTON: We've just proposed another
19 alternative.

20 JUDGE CASEY: Just so we are clear, it's not like
21 we have a proceeding like this everyday, but if you
22 don't feel that a request for data is timely, file a

1 motion or deny or reject -- advise the other party
2 that you are not going to respond.

3 MR. HANZLIK: All I'm saying is this is the first
4 we heard. We would have responded in a timely
5 manner on Monday when they asked us to respond. Now
6 they are saying that's not good enough.

7 JUDGE CASEY: Well, I think we are able to reach
8 an equitable resolution, again, with the provision
9 of the documents my Monday.

10 MR. NORINGTON: So is it my understanding that
11 the hearing examiners accept the alternative?

12 JUDGE CASEY: Your understanding is correct.

13 MR. HANZLIK: Thank you.

14 JUDGE HILLIARD: Who wants to be next?

15 MR. REDDICK: I don't know if want is the right
16 word, but I will be.

17 CROSS EXAMINATION

18 BY

19 MR. REDDICK:

153 20 Q. Good morning, Mr. LaGuardia, my name is
21 Conrad Reddick and I represent the City of Chicago.
22 I'm trying to be brief, I understand you are being

1 followed by a couple of witnesses who have time
2 limitations. I have tried to eliminate questions
3 that I heard asked before, so I hope I don't repeat
4 things you've heard already too much.

5 You started estimating nuclear plant
6 decommissioning costs back in the 1970's, didn't
7 you?

8 A. That's about right, yes.

154 Q. And in 1976 you did a study for the Atomic
10 Industrial Forum?

11 A. Yes.

155 Q. And one of the components of that study was
13 an estimate of decommissioning costs for PWR plants?

14 A. Yes.

156 Q. And that estimate was based on a detailed
16 analysis of individual activities that went into
17 decommissioning, and costing of those activities?

18 A. Yes.

157 Q. Much like the estimates you prepared for
20 Commonwealth Edison in this case?

21 A. Quite a bit different. We now go through
22 much more detail, we have a much better database to

1 work from.

158 2 Q. Absolutely. You've anticipated a couple of
3 questions that I have. Do you recall what the
4 estimate was in your 1976 study?

5 A. I think the base estimate for pressurized
6 water reactor was on the order of \$28 million,
7 without contingency.

159 8 Q. And what sort of margin of error did you
9 attach to that estimate?

10 A. I believe we addressed the issue of
11 accuracy, rather than error. I don't remember the
12 numbers, it's been quite a long time since that
13 document was published. They were specific to each
14 decommissioning alternative, if I recall, as well as
15 the power plant type, PWR and BWR, and I wouldn't
16 try to remember those numbers now.

160 17 Q. Could you approximate what that 27 million
18 might be today in debt dollars, accounting for
19 inflation and the economy since that time?

20 A. You can't really make that calculation using
21 -- simply by saying account for inflation because so
22 many other changes have taken place in the

1 regulatory requirements, in the fiscal plant, in the
2 disposal of low level waste, the inclusion of spent
3 fuel. I can't make a simple escalation comparison.

161 4 Q. I understand. And I wasn't asking you to
5 give an estimate today of that plant, I was simply
6 looking for a different number, 19 -- 2000 or 1999
7 dollar number?

8 A. On the order of -- per single unit on the
9 order of \$500 million, 500, \$600 million.

162 10 Q. And that's not an escalation of \$27 million
11 dollars, that's your current estimate of the cost of
12 decommissioning a pressurized water reactor?

13 A. On that order, that's right.

163 14 Q. And that change reflects, as you indicated,
15 a number of factors that have varied over the years.
16 Let's focus on one or two. Could you pick one of
17 the cost elements that's changed most since that
18 time?

19 A. Probably the cost for disposal of low level
20 waste.

164 21 Q. And could you give me another example of
22 cost element that has changed since that time?

1 A. The inclusion of on-site spent fuel storage
2 cost, another major increase that doesn't exist in
3 the earlier estimates.

165 4 Q. So it's fair to say that at the time that
5 you did your 1976 study, these are cost elements or
6 cost impacts that you didn't anticipate at the time,
7 that is looking forward?

8 A. We didn't -- those estimates were prepared
9 in then constant dollars, we didn't make a
10 projection as to what the cost would be in the
11 future.

166 12 Q. Let me rephrase the question. At the time
13 that you did your 1976 study, the cost elements that
14 you've just identified were not things that you
15 anticipated would become as large as they would in
16 years to follow, not that you included those costs
17 in your study?

18 A. That's a fair statement, yes.

167 19 Q. And as you said earlier, as you've learned
20 more and as the industry has gained experience,
21 you've tried to incorporate that learning into your
22 cost estimating procedures?

1 A. Yes.

168 2 Q. And have you sometimes found that things
3 that in previous studies were relatively minor have
4 become more important in later studies?

5 A. Yes.

169 6 Q. And you've adjusted to take account of those
7 changes?

8 A. That's correct.

170 9 Q. And would you agree that a cost estimating
10 professional who failed to adjust to take account of
11 new information would be properly criticized?

12 A. That's a fair statement, yes.

171 13 Q. Now, let's turn to your contingency factor
14 in your study. And I want to be sure that I
15 understand exactly what it means. Does or does it
16 not -- excuse me, let me rephrase that.

17 As you use the contingencies in your
18 study, do they reflect some degree of uncertainty?

19 A. Yes, by the very definition of the term
20 contingency there is some uncertainty there, with
21 respect to being definitive as to what's going to
22 happen at any one time. In terms of our application

1 of contingency, its an amount of money that we fully
2 expect to be spent in the decommissioning process.
3 With all of its elements applying on a day-to-day
4 basis.

172 5 Q. Let me try to rephrase what I heard. In
6 other words, something will happen to increase the
7 costs, you don't know exactly what its that will
8 happen to increase the costs, but you are confident
9 that your contingency factor will cover the cost of
10 whatever that is?

11 A. That's correct.

173 12 Q. And the contingencies that you've developed
13 are not at levels that are certain to cover these
14 unidentified things, but in your mind they are equal
15 to the cost of those things that will happen?

16 A. That's correct. Some individual elements
17 might be higher than others in a particular case,
18 but overall our estimates have proven very, very
19 accurate when you include the cost for contingency
20 in the estimate.

174 21 Q. Do you attach, to use your phrase, I won't
22 say a margin of error, how did you phrase it?

1 A. An accuracy percent.

175 2 Q. Do you attach one to your study in this
3 case?

4 A. Generally we follow the Association for the
5 Advancement of Cost Engineering definitions of
6 estimates. There are three levels of estimates that
7 they apply. One is called an order of magnitude
8 estimate, which is accurate to minus 30 to plus 50
9 percent. And then comes a budgetary estimate, which
10 is accurate to minus 15 to 30 percent. And then the
11 third is a definitive estimate which is accurate to
12 minus 5 to plus 15 percent.

176 13 Q. And yours is?

14 A. We are in the definitive estimate range,
15 minus 5 to plus 15, that's the highest level of
16 accuracy that is expected in the industry. We have
17 in fact been even closer than that range of values
18 that the AACE has been recommending.

177 19 Q. Now, with respect to the costs that Mr.
20 Berdell and Mr. Speck described -- you are familiar
21 with the cost number of Mr. Speck and Mr. Berdell?

22 A. Yes, generally.

178 1 Q. And I believe they characterize them as
 2 financial risks?
 3 A. Yes, a different type.

179 4 Q. Did you make an attempt to do the same thing
 5 with respect to the costs of those risks, that is
 6 develop factors that would roughly equal, after the
 7 possibilities of overages and underages is taken
 8 account of?
 9 A. No, we did not specifically address those
 10 types of risks.

180 11 Q. So your study, then, does not provide
 12 quantitative input to the testimony respecting those
 13 risks?
 14 A. The quantitative testimony --

181 15 Q. Quantitative for the conclusions respecting
 16 those kinds of risks?
 17 A. That's correct.

182 18 Q. Now, low level radioactive waste costs are
 19 included in your estimate of decommissioning costs
 20 for the various cost, are they not?
 21 A. Yes, in constant dollars.

183 22 Q. And over time I believe you indicated

1 earlier that those -- that cost factor has changed
2 significantly?

3 A. Yes.

184 4 Q. And you've watched those changes over time?

5 A. Yes.

185 6 Q. And you've incorporated those changes in
7 your current study?

8 A. That's correct.

186 9 Q. But the Edison testimony about uncertainty
10 as to low level radioactive burial costs did not
11 come from your study?

12 A. That's correct.

187 13 Q. Are your studies based on a defined scope of
14 work?

15 A. Yes.

188 16 Q. And over the years that you've done -- well,
17 even the Edison plant, has that scope of work that's
18 incorporated in the cost changed?

19 A. Yes, it has.

189 20 Q. And you've adjusted your studies
21 accordingly?

22 A. Yes.

190 1 Q. And you've tracked the manner in which the
 2 scope of work changes over time?
 3 A. Yes.

191 4 Q. But your cost study again does not support
 5 Edison's testimony regarding the future cost of low
 6 level burial?
 7 A. It doesn't address those issues of future
 8 costs, that's correct.

192 9 Q. And would your answers be the same with
 10 respect to the storage of radioactive materials?
 11 A. Yes.

193 12 Q. Now, when we look at your cost study, if I
 13 understand your testimony accurately, correct me if
 14 I'm wrong, your cost study defines the cost of
 15 decommissioning the plant now?
 16 A. Yes.

194 17 Q. And consistent with what we just went
 18 through, you do not attempt to look forward 30 years
 19 or 50 years or whatever period of time to say when
 20 this particular plant comes to the end of its
 21 licensed period, this is the cost then?
 22 A. That's correct. We address the fact that

1 the plant will run to the end of its licensed life,
2 and then calculate costs as if that had happened
3 today. And then we estimate the costs for
4 decommissioning of the plant in today's dollars for
5 the end of life cost without taking into account any
6 inflation or escalation costs.

195 7 Q. Anything that happens between now and then?

8 A. Correct.

196 9 Q. So we have a tomorrow cost, if we say
10 decommissioning starts tomorrow that's your cost?

11 A. That's correct.

197 12 Q. Let's go to your rebuttal testimony, there
13 are a couple of areas there that I would like to
14 clarify. And I'm focusing here on pick words that I
15 want to make sure I understand. Go first to Page 1.
16 And you summarize your conclusions beginning on Page
17 1 at the bottom?

18 A. Yes.

198 19 Q. There you say there is no assurance that
20 delaying decommissioning will reduce decommissioning
21 costs. What do you mean by assurance there?

22 A. It's not a guaranteed outcome.

199 1 Q. It's not a guaranteed -- you mean it's not a
 2 100 percent certain outcome?

 3 A. Yes.

200 4 Q. So your conclusion that there is no
 5 guarantee means that there is at least a possibility
 6 that the cost could vary in either direction?

 7 A. There is always a possibility of all events
 8 to occur. The probability of it is low.

201 9 Q. So let's look at the question on Page 2,
 10 where in the question you observe that several
 11 witnesses had testified that decommissioning costs
 12 could be substantially reduced. And your answer to
 13 the question, is that incorrect is, no, that there
 14 is no guarantee that delaying decommissioning will
 15 reduce decommissioning costs. There -- let me stop
 16 there and ask a question.

 17 In response to that question, wouldn't it
 18 be more accurate to say that there is no guarantee,
 19 but that there is a possibility?

 20 A. Yes, you could extend it out.

202 21 Q. It just seemed to me to be a slight bit
 22 inconsistent there to say no.

1 A. Well, in the context of the question, I
2 think it my was answer correct, there is no
3 guarantee that delaying the decommissioning of the
4 stations would reduce costs. As in anything there
5 is always a possibility it could, but there is no
6 guarantee of it at all.

203 Q. Would it also be accurate then to say that
8 there is no guarantee that immediate decommissioning
9 will result in the best costs?

10 A. There could be situations where that might
11 occur in, perhaps another scenario that has not been
12 explored. But we think we've covered the scenario
13 accurately for these Com Ed plants.

204 Q. I understand that's your opinion. Let's
15 turn now to the word synergies, and you discuss them
16 beginning on Page 2 in your summary and in some more
17 detail later in your rebuttal testimony. If you
18 look at the second occurrence, and I think it's on
19 Page 8 of your extended discussions, on Page 8?

20 A. Yes.

205 Q. At Line 26, you make reference to corporate
22 synergies resulting from a merger. That seems to me

1 to suggest a certain kind of synergy, the sort of
2 synergy you would get from consolidating departments
3 or operating systems or computer systems. Is that
4 what you meant to refer to there?

5 A. Yeah, that is the type of synergy I was
6 referring to in terms of corporate synergy. You
7 might consolidate with accounting department or a
8 procurement department at the headquarter level. It
9 doesn't always reflect back to the site specific
10 administration, and procurement categories at a
11 particular site.

206 12 Q. Okay, let's turn back to your summary
13 statement on Page 2. There you don't use the word
14 corporate synergies. But is your conclusion
15 similarly limited?

16 A. I think there is another issue here that
17 comes into play. The corporate synergies is one
18 element that's not really going to help in reducing
19 costs at the site because the costs are so heavily
20 labor intensive. The corporate synergies of a
21 merger, which are recommended and apparently the way
22 many companies go in, will no doubt result in more

1 efficient operation of the company from an operating
2 perspective.

3 With respect to decommissioning, those
4 types of synergies are not really going to affect
5 the decommissioning activities because those are so
6 labor intensive and so site intensive of the
7 activities going on at the site.

207 8 Q. So your conclusion on Page 2 then includes
9 not just corporate synergies of the type that we
10 talked about consolidating departments, but also the
11 effect on the site, and to nuclear personnel
12 themselves?

13 A. That's correct. And my statement on Page 2
14 is a summary statement which I then elaborated on on
15 Page 8.

208 16 Q. So is it your testimony, then, that there
17 won't be any benefits of combining the personnel,
18 experience and knowledge of the PECO and Edison
19 nuclear personnel that result -- that would result
20 in a reduction of decommissioning costs?

21 A. Not to any substantial amount on the
22 decommissioning activities.

1 Q. And what do you mean by substantial amount?

2 A. In terms of reductions of tens or hundreds
3 of million dollars, I don't expect to see those
4 economies of scale carrying down, cascading down
5 into the decommissioning activities because the
6 decommissioning activities are so labor intensive.
7 You might effect some centralized procurement
8 function.

9 But my experience has been in
10 decommissioning the procurement is needed almost
11 daily, and you need an on-site procurement function
12 in any case, so you will have some duplication of
13 functions within the company because these decisions
14 have to be made very rapidly.

15 A piece of equipment is failed, a
16 front-end loader, or a crane isn't functioning that
17 day, you can't call up the home office, central
18 procurement office and ask for a new forklift or new
19 front-end loader or crane to be delivered. The guy
20 on the site has to pick up a phone and get a local
21 rental agency and say get me a machine tomorrow, and
22 that has to be done instantaneously. So you wind up

1 not having those type of efficiencies carried down
2 to the decommissioning process.

210 3 Q. Might not an experienced crew handle those
4 situations more efficiently than one that isn't?

5 A. You still -- no, there is no real
6 determination of when a crane is going to fail, and
7 that's why we include contingency to deal with the
8 problems that occur in the field.

211 9 Q. I understand. My question was perhaps
10 poorly phrased. In dealing with unanticipated or
11 unexpected events, wouldn't a crew that has a great
12 deal of background, a great deal of experience in
13 handling these types of projects may or may not have
14 encountered this particular one, but have experience
15 dealing with the anticipated, might they not act
16 more efficiently?

17 A. The crew that you speak of that I would put
18 on site and we have accounted for has a procurement
19 function built into it, so they would and they will
20 try to anticipate some of those. But you are not
21 going to have standby cranes, these are very
22 expensive pieces of equipment. You try to do your

1 maintenance daily. And usually try to do
2 maintenance on the back shift so the piece of
3 equipment is ready the next day.

4 But in spite of that, we've had icing
5 lock up a crane for several hours. You can't
6 anticipate that that particular crane is going to
7 freeze up. I don't mean to be so specific.

212 8 Q. I'm wondering whether it's my fault in
9 asking a poor question. But I'm simply saying even
10 in those situations where you had a crane freeze up,
11 someone who is experienced in these kinds of
12 projects or someone who may have encountered it
13 before, it seems to me, would be more efficient in
14 reacting to it than someone who never had to deal
15 with that situation?

16 A. That's a hard call to say with such
17 certainty in any case. One would like to think that
18 an experienced crew could respond faster and give
19 the right answers. And we think that's reasonable.
20 An inexperienced crew, not likely to shut down a job
21 and sit on their hands and wait for somebody to give
22 them direction, they too would try. It's a question

1 of who moves faster, that's speculation, that's hard
2 to call that one.

213 3 Q. And you see no benefit from a crew, perhaps,
4 having the experience of decommissioning more than
5 one plant or several plants of the same type?

6 A. There is some benefit to that, certainly.

214 7 Q. But it's not substantial?

8 A. It could be substantial, depending on the
9 experience of that company. There have been lots of
10 companies who have repeated experience and still
11 screw up a job, if I may use that term. I've seen
12 it happened.

215 13 Q. One last area, and I think I can eliminate
14 most of this because Mr. Robertson covered it. He
15 discussed with you Rancho Seco and San Onofre
16 nuclear plants in California. My question is this,
17 in those situations where the operators or the
18 owners elected SAFSTOR for a period of time, by
19 taking that process or taking that option, they did
20 delay the date by which they incurred certain
21 substantial expenses by some period of time?

22 A. Yes, that's true.

216 1 Q. That is to say that by delaying dismantling,
 2 the actual taking apart of bricks and pipes, the
 3 expenses of doing that were incurred at a future
 4 time as opposed to immediately?

 5 A. Yes. And what they learned from that is it
 6 was getting more expensive the longer they waited
 7 because burial costs were going out of sight,
 8 particularly in California. And the availability of
 9 a burial site is in great question within
 10 California. It's virtually dead.

217 11 Q. Now, but, I guess I wanted to, again,
 12 clarify your testimony. When you say immediate
 13 decommissioning, do you mean immediate
 14 dismantlement, or in your testimony you say
 15 decommissioning, do you include in that any of the
 16 NRC approved methods including SAFSTOR?

 17 A. When we speak of immediate decommissioning
 18 in a generic general term, it means decom, which
 19 means removal of all activity and termination of the
 20 license and following that dismantlement of all
 21 structures.

218 22 Q. In your testimony when you say immediate

1 decommissioning, you mean immediate decom?

2 A. Yes, immediate decom.

3 MR. REDDICK: That's all, thank you.

4 JUDGE HILLIARD: Mr. Townsend.

5 MR. FELDMEIER: Could we have a five minute
6 break, he's been testifying now for an extended
7 period.

8 JUDGE HILLIARD: Sure.

9 JUDGE CASEY: Okay, five minutes.

10 (Whereupon, there was
11 a short break taken.)

12 JUDGE CASEY: Mr. Townsend you may proceed with
13 cross.

14 CROSS EXAMINATION

15 BY

16 MR. TOWNSEND:

219 17 Q. Can you turn in your rebuttal testimony,
18 please, to Page 11?

19 A. Yes.

220 20 Q. There you criticize Mr. Bodmer's auction
21 approach; is that correct?

22 A. Yes.

221 1 Q. One of the reasons you criticize it is
 2 because you are unaware of any regulatory body that
 3 has adopted that approach; is that correct?
 4 A. That's one of the reasons, yes.

222 5 Q. In the context of a fully litigated
 6 regulatory proceeding that is outside of approving
 7 its settlement, has any other regulatory body
 8 approved the approach that's proposed by Edison in
 9 this case?
 10 A. I don't know all the cases, I don't know
 11 that.

223 12 Q. None that you are aware of, though?
 13 A. None that I'm aware of.

224 14 Q. You are aware of a lot of them?
 15 A. I like to think I am.

225 16 Q. You also indicate that anyone who would bid
 17 on this -- in this auction would require a
 18 substantial payment, do you see that?
 19 A. Yes.

226 20 Q. Do you believe that Exelon-Genco would be
 21 receiving a substantial payment for taking ownership
 22 of Edison's nuclear plants under Edison's proposal?

1 MR. FELDMEIER: I'm going to object because he
2 didn't offer testimony about Edison's proposal.
3 JUDGE HILLIARD: Repeat the question.
4 JUDGE CASEY: Can you please repeat the question.
5 MR. TOWNSEND: Can you read it back?
6 (Whereupon, the record
7 was read, as requested.)
8 JUDGE CASEY: The objection is overruled. If you
9 know you can answer. If you don't, you don't.
10 THE WITNESS: I don't know the answer to that.
11 BY MR. TOWNSEND:
227 12 Q. So you don't know if Mr. Bodmer's proposal
13 is better or worse compared to Edison's proposal
14 when it comes to that issue?
15 A. What I responded to in the questions is that
16 a big auction is not something that most companies
17 would sign up to because of the uncertainties
18 without some substantial coverage of their risk.
228 19 Q. And under Edison's proposal, is there some
20 substantial coverage of Exelon-Genco's rates?
21 A. I don't know that.
229 22 Q. So in that respect you don't know whether or

1 not Mr. Bodmer's proposal is better or worse that
2 Edison's proposal?

3 A. I wasn't specifically addressing Edison's
4 proposal.

230 5 Q. That's the point.

6 A. I was referring to other companies.

231 7 Q. Now I'm asking you to compare the two and
8 say is there a difference, is Mr. Bodmer's proposal
9 worse than Edison's proposal in this regard?

10 A. It's a different -- I interpreted it to be a
11 different type of proposal than what Mr. Bodmer is
12 proposing.

232 13 Q. Under your analysis of Mr. Bodmer's
14 proposal, would you agree that the conclusion is
15 that no company would accept Edison's nuclear plants
16 without receiving a substantial payment?

17 A. That's what I stated, yes.

233 18 Q. And that's true both under Mr. Bodmer's
19 proposal as well as under Edison's proposal? Is
20 there anything within Edison's proposal that makes
21 you think that Exelon-Genco does not need a
22 substantial payment for taking ownership of the

1 nuclear plants?

2 MR. FELDMEIER: Same objection. He did not offer
3 testimony on Edison's specific proposal. He
4 commented on a theory that Mr. Bodmer was advancing.
5 But he's not testified about Edison's proposal.
6 These questions could be directed to
7 Mr. Berdell or others.

8 JUDGE CASEY: The objection is overruled.

9 THE WITNESS: My understanding of Mr. Bodmer's
10 proposal was to put this job out for bid to all
11 comers. And my response was I don't know of any
12 private companies, Bechtel, I use to say
13 Sloan-Webster, that's not a company anymore, or
14 Westinghouse or BNFL, whether they would come to the
15 table and accept this job without getting
16 substantial up front payment, that's all I've
17 testified to.

18 BY MR. TOWNSEND:

234

19 Q. And that's true whether it's within an
20 auction context or whether it's within a contract
21 context; is that correct?

22 A. I suppose that's correct, yes.

235 1 Q. Thank you. What level of efficiency does
 2 TLG assume in estimating the manner in which the
 3 plant owners will decommission plants?
 4 A. Can you be more specific in terms of
 5 efficiency?

236 6 Q. Management efficiency.
 7 A. I don't know how to measure that in
 8 quantitative terms.

237 9 Q. Well, does TLG take into account, for
 10 example, that Zion was mismanaged?
 11 MR. FELDMER: Objection, assumption of a fact
 12 that's not in evidence.
 13 JUDGE HILLIARD: It's not in evidence, sustained.
 14 BY MR. TOWNSEND:

238 15 Q. Assuming that Zion was mismanaged, and I
 16 think that actually Mr. Berdell acknowledges that in
 17 his testimony, but assuming that design was
 18 mismanaged or that assuming that the plants in
 19 general are being mismanaged, would that effect
 20 TLG's estimate?
 21 A. Our estimates assume the decommissioning
 22 process would be performed in an efficient

1 management, using your own term, that there would be
2 no mismanagement, per se, and that the planned
3 process of decommissioning would be engineered and
4 implemented according to now well defined
5 procedures. That has no relationship to anything
6 that may have happened during operations.

239 7 Q. What percentage of nuclear plants have been
8 permanently shut down prior to the end of their
9 licensed life or if it's easier, just give a number.

10 A. I would say 10 to 15 percent of the plants.

240 11 Q. And of those, how many would you -- how many
12 are less than 50 megawatts?

13 A. Two, three, something in that order.

241 14 Q. Two or 3 percent? I'm trying to compare
15 apples to apples. You gave us 10 to 15 percent have
16 been permanently shut down, of that percentage what
17 percent are less than 50 megawatts?

18 A. Less than 1 percent.

242 19 Q. Total?

20 A. Total. Only two plants that would be less
21 than 50 megawatts.

243 22 Q. And how many were greater than 50 megawatts?

1 A. The rest were, the 10 to 15 percent were
2 greater than 50 megawatts.

244 3 Q. In deciding whether or not to shut down a
4 plant, plant operators look at factors outside of
5 decommissioning costs , correct?

6 A. Yes.

245 7 Q. One of the factors is --

8 A. Can I correct my statement, that's one of
9 the things they look like other than decommissioning
10 costs. They look at other things as well as
11 decommissioning costs, that's what I meant to say.

246 12 Q. Correct. And one of the factors that plant
13 operators look at is the marketplace and generation;
14 is that correct?

15 MR. FELDMEIER: I'm going to object,
16 Mr. LaGuardia presented testimony on cost estimates
17 about cost of decommissioning the plants. He's not
18 testified about shut down decisions, and the
19 economics of shut down decisions, so this is outside
20 the scope of his testimony and it's unfair to ask
21 him questions about this. Also for the record I
22 would note that there is no foundation for this.

1 JUDGE HILLIARD: What's your response?

2 MR. TOWNSEND: He's an expert in the area, he
3 does testify with respect to plant shut downs. The
4 last Q and A in his direct testimony discusses plant
5 shut downs and the impacts of the plant shut downs.
6 I'm just exploring when people shut plants down.

7 MR. FELDMEIER: I think this question answer, if
8 I may be heard briefly, is about impact on
9 decommissioning. He's asking about a different type
10 of analysis, and that's market price and decision
11 when a plant no longer becomes economic.

12 MR. TOWNSEND: Exactly. They don't just look at
13 decommissioning costs, they look at other things,
14 that's the point.

15 MR. FELDMEIER: And not to belabor this, but this
16 is the decommissioning cost witness, not the other
17 things. He is asking a question about the other
18 things.

19 MR. TOWNSEND: He's aware of this, he's an expert
20 in the area.

21 JUDGE HILLIARD: The objection is sustained.

22 MR. TOWNSEND: Will Mr. Berdell be able to answer

1 those questions, Mr. Feldmeier?

2 MR. FELDMEIER: I believe so. Upon further
3 reflection Chris, they also may have been
4 appropriately advanced to Mr. McDonald.

5 MR. TOWNSEND: He may be recalled.

6 BY MR. TOWNSEND:

247 7 Q. In your supplemental testimony today, you
8 provided two additional questions and answers; is
9 that correct?

10 A. Yes.

248 11 Q. I would like to direct your attention to No.
12 8, it's the second Q and A that you responded to, do
13 you see that?

14 A. Yes.

249 15 Q. In there, in the second sentence of that
16 response, you indicate that obviously technological
17 advancements can cause costs to decrease in a number
18 of ways; is that correct?

19 A. Yes.

250 20 Q. And you identify improving the efficiency of
21 decommissioning personnel; is that correct?

22 A. Yes.

1 Q. What other ways could technological
2 advancements cause costs to decrease?

3 A. I have some technology related to
4 decontamination effectiveness, which has been a very
5 difficult one to prove because the cost benefit
6 studies typically showed the costs don't go down
7 they go up, but they are necessary to perform in
8 order for the crew is able to work on highly
9 radioactive systems or structures.

10 Most cases it does not -- the net result
11 is the cost doesn't go down, you reduce exposure to
12 workers. There aren't too many other areas where
13 technological advancements will reduce costs in
14 decommissioning.

15 MR. TOWNSEND: I move to strike the answer as
16 nonresponsive to the question. I just asked for
17 identification -- he indicates in the testimony that
18 there are a number of ways, I requested him to
19 identify those ways, and he did not respond to that
20 question.

21 JUDGE CASEY: I believe the end of the answer was
22 that there weren't many other ways to reduce; is

1 that correct?

2 THE WITNESS: That's correct.

3 JUDGE CASEY: So the answer will stand.

4 BY MR. TOWNSEND:

252 5 Q. Do you agree that decommissioning
6 effectiveness is one way in which technological
7 advancements can cause costs to decrease?

8 A. Yes, they can.

253 9 Q. Thank you.

10 A. But they can also cause them to increase.

11 MR. TOWNSEND: Move to strike.

12 JUDGE CASEY: The second part of the answer will
13 be stricken.

14 BY MR. TOWNSEND:

254 15 Q. Question and answer No. 7, the first
16 additional question and answer that you provided
17 today?

18 A. Yes.

255 19 Q. Do you have that in front of you?

20 A. Yes.

256 21 Q. I would like to direct your attention to the
22 next to last sentence in that answer where you state

1 that ownership of multiple plants may even present
2 added problems by stretching finite resources when
3 the owner decommissions several plants
4 simultaneously, do you see that?

5 A. Yes.

257 6 Q. You are not suggesting that the Edison PECO
7 merger is going to result in increased safety risks,
8 are you?

9 A. No, I didn't discuss safety risks.

258 10 Q. Are you aware whether or not Edison made
11 this claim when applying to the NRC to obtain
12 approval for the merger?

13 A. I don't know that.

259 14 Q. Are you familiar with Edison's application
15 to the NRC for approval of the merger?

16 A. No, I am not.

260 17 Q. Would you be surprised if that statement was
18 not made in -- strike that.

19 Would you anticipate that within the
20 context of the merger, that Uni com and PECO
21 indicated that safety reliability and efficiency
22 would increase as a result of the merger?

1 JUDGE CASEY: Is that in the context of
2 decommissioning?

3 MR. TOWNSEND: It doesn't break it out in terms
4 of decommissioning or not.

5 MR. FELDMEIER: I'm going to object to the
6 question asking him to speculate about what two
7 companies would say in the context of a merger. I
8 would suggest that if he has a document that he
9 would like to show the witness, and if the witness
10 has knowledge of it, he could speak to the document.

11 JUDGE HILLIARD: Sustained.

12 MR. TOWNSEND: Is there another witness who will
13 be presented who is familiar with Edison's NRC
14 application?

15 MR. FELDMEIER: Potentially Mr. Berdell, but at
16 this point I don't think so.

17 MR. TOWNSEND: Do you have your response to
18 Coalition Data Request No. 5?

19 MR. FELDMEIER: It's been provided to the
20 witness.

21 BY MR. TOWNSEND:

261 22 Q. Do you have that in front of you?

1 A. Yes, I do.

262 2 Q. And does that purport to be a petition that
3 was filed by Edison and PECO with the NRC seeking
4 approval of the merger?

5 MR. FELDMEIER: We have a copy of the written
6 response, we don't have the document here with us,
7 if you want to show him that copy he can answer
8 questions off that copy. I don't think we have the
9 exact copy.

10 THE WITNESS: I've read it.

11 BY MR. TOWNSEND:

263 12 Q. And do you see the document that is attached
13 to that response?

14 A. Yes, I see the document.

264 15 Q. And turning to the flagged page, I believe
16 it's Page No. 3 at the bottom, continuing on to Page
17 No. 4, does that state that the merger of Unicom and
18 PECO will strengthen the merged companies' T and E
19 capability, will create a diversified and efficient
20 generating company to provide power for sale in the
21 restructured competitive electricity market, and
22 will improve the safety, reliability and efficiency

1 of all of the functions of the merging companies?

2 A. I see that.

265 3 Q. I believe that you agreed with Mr. Reddick
4 that as a result of the merger there is likely to be
5 some economies of scope and scale; is that correct?

6 MR. FELDMEIER: I'm going to object as a
7 mischaracterization of his testimony. I don't
8 recall him saying that.

9 BY MR. TOWNSEND:

266 10 Q. Do you believe that there is likely to be
11 some economies of scope and scale as a result of a
12 merger between PECO and Edison?

13 A. That may be on the operating side, I don't
14 know that to be a fact on the decommissioning side.

267 15 Q. Did you perform any analysis to determine
16 whether there were any economies of scope and scale
17 with regard to contracting with decommissioning
18 contractors?

19 A. We did not do that specific study, no.

268 20 Q. And again, returning to your response to
21 question No. 7, the first question that you are
22 providing in the supplemental testimony today, you

1 indicate that much of the technical expertise in
2 decommissioning is still likely to reside with the
3 contractors; is that correct?

4 A. Yes.

269 5 Q. Would you anticipate that there would be
6 some economies of scope or scale with regards to
7 contracting outside contractors?

8 A. Yes, and we've incorporated those into our
9 study, the use of contractors.

270 10 Q. Have you incorporated economies of scope and
11 scale that could -- as a result of the merger with
12 regards to contracting with decommissioning
13 contractors?

14 A. No, we did not address the merger issues,
15 per say. There were economies of scale, if you can
16 use that term, or efficiencies which are available
17 in the industry today and we've incorporated those
18 into our study, too.

271 19 Q. Did you determine whether there might be
20 additional -- strike that.

21 Did you perform any formal analysis
22 regarding the optimum number of plants for purposes

1 of decommissioning?

2 A. I'm not sure I understand your question,
3 what do you mean by optimum number of plants?

272 4 Q. I guess I'm going back to your response
5 again. The first sentence in that second paragraph
6 suggestion optimum economies for decommissioning
7 purposes can probably be achieved with far further
8 than 13 plants, is that your testimony?

9 A. That is my testimony.

273 10 Q. That's what I was referring to.

11 A. Okay, no, we did not do a specific study to
12 address that issue.

274 13 Q. Did you perform any formal analysis to
14 determine the optimum number of employees?

15 A. No.

275 16 Q. Perform any kind of analysis with regards to
17 the impact of the merger on the cost of labor?

18 A. No.

276 19 Q. What number of workers were assumed in your
20 estimate?

21 A. Crew workers or management workers?

277 22 Q. Total workers.

1 A. I don't have those specific numbers at my
2 fingertips, those are in our backup calculations.

3 MR. TOWNSEND: I would like to make an
4 on-the-record data request for that information if
5 Edison could please provide that to us.

6 MR. FELDMER: For the backup calculations
7 regarding the number of workers in the assumed -- in
8 the TSL reports that we are offering today?

9 MR. TOWNSEND: That's correct.

10 MR. FELDMER: We will attempt to get that, I
11 don't know how difficult it will be to obtain that
12 material, so I can't make any promise about getting
13 it by Tuesday.

14 THE WITNESS: May I ask a question? The number
15 of workers and number of staff varies from period to
16 period within our study. It's not one fixed number
17 for the entire duration, it's a function of what
18 activities are going on based on a schedule that we
19 deem is appropriate for each site, and each plant.
20 So it's not one number, and it does vary from site
21 to site slightly.

22 BY MR. TOWNSEND:

278

1 Q. And you could provide those numbers to us,
2 you know where those are within your study?

3 A. I believe we can easily account for number
4 of staff members, I'm not sure we can pick off the
5 number of persons, crew workers that are employed.
6 I don't recall if we print that out as a separate
7 output.

279

8 Q. So you might not even know within the
9 background papers the number of crew that you've
10 assumed?

11 A. The crew is determined by the number of man
12 hours to accomplish the work, whether it's done by a
13 crew of five or a crew of seven in a given task is
14 not important to the cost. It's a function of what
15 is the man hours and labor costs per man hour to
16 accomplish the work.

17 So I'm not sure I can give you a
18 definitive number of workers at any one time,
19 because that will change, within a given period that
20 will change how many workers you have on the site.
21 Hands-on workers. It's not an easily retrievable
22 number. I'm not sure I can give you an exact number

1 at all.

280 2 Q. Even if you could provide a range that would
3 be helpful. Thank you.

4 Are you aware that Edison recently
5 announced that it was firing approximately 3.5
6 percent of its total work force, all of whom were
7 working in Edison's nuclear group?

8 A. I'm not directly aware of that, no.

281 9 Q. Do you believe that firing 153 workers could
10 result in decommissioning savings?

11 A. I don't know what the tie in is to
12 decommissioning, I don't know.

13 MR. TOWNSEND: No further questions, thank you.

14 JUDGE CASEY: Any other cross? Redirect.

15 MR. FELDMEIER: Just a very brief couple of
16 questions.

17 JUDGE CASEY: Oh, I'm sorry, hold on a second Mr.
18 Feldmeier.

19 JUDGE CASEY: I have one question.

20

21

22

1 EXAMINATION

2 BY

3 JUDGE CASEY:

282 4 Q. Could you please turn to your Page 7 on your
5 rebuttal testimony. The question and answer 13.

6 A. Yes.

283 7 Q. It's regarding contingency factors. The
8 last sentence of your answer indicates that it was
9 your experience that other regulatory bodies have
10 accepted contingency factors. Are you aware of any
11 regulatory bodies that have not accepted contingency
12 factors?

13 A. I'm not aware of any regulatory bodies that
14 did not accept them.

15 JUDGE CASEY: That was my one and only question.
16 Mr. Feldmeier, do you have any redirect?

17 MR. FELDMER: Very briefly.

18 REDIRECT EXAMINATION

19 BY

20 MR. FELDMER:

284 21 Q. Mr. LaGuardia, Mr. Robertson asked you
22 several questions about decommissioning at

1 Commonwealth Edison's nuclear plants, do you have
2 those questions in mind?

3 A. Some.

285 4 Q. With respect to Dresden Station 1, you
5 responded to one of his questions by saying that the
6 station was in a SAFSTOR process, do you recall
7 giving that answer?

8 A. Yes.

286 9 Q. Can you explain to us why Dresden Station 1
10 is in SAFSTOR?

11 A. Yes. Unit one was put in a SAFSTOR
12 condition because units two and three are continuing
13 to operate at the site, there is no need to start
14 decommissioning of unit one -- there was no need to
15 start decommissioning of unit one because the site
16 was maintained in a safe condition, workers could be
17 used to attend to any maintenance activities, fuel
18 was stored on site in unit one, and there is no
19 place to send it, so it was left in the SAFSTOR.

287 20 Q. Would those conditions that you just
21 described be present at all of Com Ed's nuclear
22 stations when decommissioning work begins?

1 A. That will have to be determined on a case by
2 case basis at each of the sites. Those questions
3 are site specific, but similar considerations are
4 going to have to be looked at at that time.

288 5 Q. But will the specific configuration of one
6 operating unit that is located between -- excuse me,
7 one decommissioning unit that is located between two
8 operating units be present at the other stations?

9 A. No, that will not happen.

289 10 Q. Now, Mr. Robertson also asked you about Zion
11 station. Are you familiar with the considerations
12 that went into the sequence of decommissioning work
13 there?

14 A. In general, yes.

290 15 Q. And what were those considerations?

16 A. The need to obviously shut down a plant in a
17 safe manner, the need to store the fuel on site
18 until the Department of Energy is ready to accept
19 the fuel, the need to dispose of low level waste
20 that exists, what we call legacy waste, left over
21 from operations. The need to continue manning the
22 site because the site -- the systems were in

1 continuous use, namely the synchronous generator
2 continued to be use so the site had to be maintained
3 in a manned state.

291 4 Q. Can you tell us what the synchronous
5 generator that you just referred to is?

6 A. I believe it's a part of the generator
7 system that maintains the frequency on the
8 distribution system, it stabilizes the
9 distribution -- it stabilizes the frequency of the
10 output to the grid.

292 11 Q. Will the specific conditions that you just
12 referred to for Zion station be present at all of
13 Com Ed's nuclear stations when they begin
14 decommissioning work?

15 A. Not likely.

16 MR. ROBERTSON: I object to that question unless
17 the witness knows from his own direct knowledge it
18 calls for speculation. There is no foundation for
19 this, for this particular question, and the witness
20 hasn't testified whether he knows what the
21 conditions are in each of the other units, and
22 whether or not they will be used for something else,

1 such as the situation described at Zion. So I
2 object to the question for lack of foundation, it
3 calls for speculation.

4 MR. FELDMER: Mr. LaGuardia has submitted cost
5 studies with respect to all of Com Ed's nuclear
6 stations. He's familiar with the conditions at the
7 stations, and he's also familiar with conditions at
8 the time of decommissioning. I'm simply asking him
9 whether the specific conditions that he knows of
10 with respect to his work at Zion, whether he expects
11 those conditions will be similar at all of Com Ed's
12 stations when they begin decommissioning.

13 JUDGE HILLIARD: If he knows the answer, he can
14 answer.

15 THE WITNESS: I'm sorry, I couldn't hear you.

16 JUDGE CASEY: The objection is overruled, so you
17 can answer the question.

18 THE WITNESS: No, each of those sites are
19 significantly different than Zion and the conditions
20 that we expect to find at the end of life are not
21 similar to the Zion station right now.

22 MR. FELDMER: I have nothing further.

1 JUDGE CASEY: There was a line of redirect
2 referring to Mr. Robertson's questions. Do you have
3 any recross?

4 MR. ROBERTSON: Just a couple.

5 RECROSS EXAMINATION

6 BY

7 MR. ROBERTSON:

293 8 Q. Mr. LaGuardia, is the decision to
9 decommission a plant at a particular point in time,
10 at least in part, a financial decision?

11 A. I would expect that to be the case, yes.

294 12 Q. And as the generating industry becomes
13 deregulated, in other words generators are no longer
14 regulated on an economic basis by state commissions,
15 and utilities are permitted to sell power into the
16 market at a market price, would you anticipate that
17 financial decisions will continue to play a role in
18 the determination to decommission?

19 A. I would expect that to be the case.

295 20 Q. And would you expect that there might be a
21 slightly different change in the regulatory
22 environment, there might be a slightly bigger

1 emphasis on the financial aspects than there have
2 been in the past under the old regulatory concept?

3 A. It may be a bigger effect for a different
4 reason. There may be other drivers that have a much
5 more significant impact such as the availability of
6 low level disposal sites, or the type of storage or
7 the means of storage for spent fuel. The emphasis
8 shifts, but it still comes down the financial
9 consideration.

296 10 Q. And would you agree that all of the units
11 that have been either placed in SAFSTOR status or
12 decommissioned to this point in time have been
13 placed in that status in the old regulatory
14 environment?

15 A. What was the question there?

297 16 Q. Well, now that I've thought about if you
17 don't understand, maybe I better not ask it.

18 MR. ROBERTSON: No further questions, thank you.

19 MR. FELDMEIER: We have no re-redirect.

20 JUDGE HILLIARD: You had certain exhibits which
21 we were going to wait to admit pending objections by
22 counsel.

1 JUDGE CASEY: There was Commonwealth Edison's
2 Exhibit No. 1 to the direct testimony of Thomas
3 LaGuardia with attached Schedule 1. It was
4 originally proffered with some additional documents,
5 but I believe those are the ones that we had already
6 took administrative notice of because they were in a
7 prior document; is that correct?

8 MR. FELDMEIER: Right. Schedules TSL 2 through 9
9 were admitted in the '99 case. We are seeking their
10 readmission here. They are the cost studies that
11 underlie Mr. LaGuardia's testimony. We think they
12 are important documents. We recognize that you are
13 taking notice that they are the same materials in
14 another docket. We think it's an important thing
15 that they be a part of this record also.

16 JUDGE CASEY: Well, they are part of the record
17 already, we took administrative notice of them.

18 MR. FELDMEIER: Okay.

19 JUDGE CASEY: And I have no doubt that they are
20 important. Then there is the Commonwealth Edison
21 Exhibit No. 10, rebuttal testimony. Are there any
22 continuing objections with respect to that? And

1 then finally Commonwealth Edison Exhibit No. 14
2 which were the responses to the Examiners' questions
3 seven and eight. No objection? Then those three
4 exhibits will be admitted.

5 (Whereupon Edison
6 Exhibits Nos. 1, 10 and 14 were
7 admitted into evidence.)

8 JUDGE CASEY: Mr. LaGuardia, you are excused.

9 (Witness excused).

10 JUDGE CASEY: Have counsels conferred with
11 respect to witness testimony for the remainder of
12 the day? When this hearing began this morning there
13 was some question as to whether or not there is
14 going to be adequate time for two witnesses.

15 We had known that there was some time
16 constraint for Mr. Riley, however we were just
17 apprised that there may be additional time
18 constraints. So if those concerns have been
19 addressed or worked out between counsel.

20 MR. REVETHIS: It's our understanding that
21 Mr. Riley will be the next witness.

22

1 JUDGE CASEY: All right, Mr. Riley is up. Please
2 stand to be sworn.

3 (Whereupon Staff
4 Exhibits Nos. 1, 2 and 3 were
5 marked for identification
6 as of this date.)
7 (Witness sworn.)

8 MR. REVETHIS: If I may initially, for purposes
9 of maintaining an orderly record, we can submit
10 redirect testimony of staff witness Therese Ebery at
11 this time, via affidavit, and then put
12 Mr. Riley on, if that's agreeable.

13 JUDGE HILLIARD: Go ahead.

14 MR. REVETHIS: First of all I would like to
15 submit the direct testimony of staff witness The rese
16 Ebery of the accounting department, financial
17 analysis division of the Illinois Commerce
18 Commission which has been previously marked pour
19 purposes of identification as Illinois Commerce
20 Commission Staff Exhibit 1, dated July 2000
21 consisting of five pages of narrative text along
22 with an accompanying affidavit which has been

1 properly executed by Ms. Ebery. And we ask that
2 that be submitted into evidence at this time.

3 JUDGE HILLIARD: Objections.

4 MR. REVETHIS: It's our understanding there is no
5 cross of Ms. Ebery.

6 JUDGE CASEY: Mr. Reventhis has that been
7 tendered to the court reporter?

8 MR. REVETHIS: No, I will do so presently.

9 JUDGE CASEY: And while you are doing that, let's
10 go off the record for a moment.

11 (Whereupon Staff
12 Exhibit No. 1 was
13 admitted into evidence.)
14 (Whereupon, there was an
15 off-the-record discussion.)

16 JUDGE HILLIARD: Mr. Revethis, if you want to
17 introduce direct.

18 JUDGE CASEY: Just so the record is clear we are
19 back on the record.

20

21

22

1 WILLIAM RILEY,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY

6 MR. REVETHIS:

298 7 Q. Would you kindly state your name, title and
8 business address for the record, please?

9 A. My name is William Riley, I am the chief of
10 the electric section, engineering department of the
11 energy division of the Illinois Commerce Commission.
12 My business address is 527 East Capital Avenue,
13 Springfield, Illinois 62701.

299 14 Q. Sir, do you have before you a document which
15 has been marked for purposes of identification as
16 Illinois Commerce Commission Staff Exhibit 2,
17 entitled the Direct Testimony of William Riley,
18 electric section, engineering department, energy
19 division of the Illinois Commerce Commission dated
20 July 2000, which consists of 11 pages of narrative
21 text along with accompanying Schedule 1, sir?

22 A. Yes, I do.

300 1 Q. Do you also have before you a document which
 2 is previously marked for purposes of identification
 3 as Illinois Commerce Commission Staff Exhibit 3,
 4 also entitled the Direct Testimony of William Riley
 5 which is also dated July 2000, sir, consisting of 4
 6 pages of narrative text?

 7 A. It's entitled the Testimony of William
 8 Riley.

301 9 Q. Right, I'm sorry, the testimony.

 10 A. And it consists of four pages, that's
 11 correct.

302 12 Q. And I ask you, sir, whether both of these
 13 testimonies, Illinois Commerce Commission Staff
 14 Exhibit 2 and 3 were prepared by you or under your
 15 direction or control, sir?

 16 A. They were.

303 17 Q. Are there any additions, modifications or
 18 corrections you wish to make to either of these
 19 pieces of testimony?

 20 A. I have two corrections to ICC Staff Exhibit
 21 2. And that is in table 2.2 on Page 9. The costs
 22 shown for 19 -- the costs shown for 1988 for the

1 referenced PWR is shown as \$44,856,386. It should
2 read \$36,107,945. In addition for 1991, the figure
3 for the reference PWR of 62,830,376 should read
4 44,856,368. The remainder of the figures in that
5 table are correct.

6 JUDGE CASEY: Mr. Revethis, have those
7 corrections already been made on the copies tendered
8 to the court reporter?

9 MR. REVETHIS: Yes, they have, your Honor.

10 BY MR. REVETHIS:

304 11 Q. Mr. Riley, having noted your modifications,
12 if I were to ask you exactly the same questions set
13 forth in your narrative testimonies would you in
14 fact give exactly the same responses here and now
15 today, sir?

16 A. Yes, I would.

305 17 Q. Is it your intent that this be your sworn
18 testimony in this proceeding?

19 A. Yes, it is.

20 MR. REVETHIS: Mr. Examiner, at this time we ask
21 that the direct testimony of William Riley, which
22 has been previously marked as Illinois Commerce

1 Commission Staff Exhibit 2, consisting of 11 pages
2 of narrative text, along with Schedule 1 and also
3 the testimony of William Riley, which has been
4 previously marked for purposes of identification as
5 ICC Staff Exhibit 3 consisting of 4 pages of
6 narrative testimony be admitted into evidence at
7 this time, and we offer the witness for cross
8 examination also at this time.

9 JUDGE CASEY: Any objections? Will be admitted
10 subject to cross.

11 (Whereupon Staff
12 Exhibits Nos. 2 and 3 were
13 admitted into evidence.)

14 CROSS EXAMINATION

15 BY

16 MR. HANZLIK:

306 17 Q. Good morning, Mr. Riley?

18 A. Good morning.

307 19 Q. Is it fair to say that in this case staff
20 supports Com Ed's continued recovery of
21 decommissioning costs from customers for a period of
22 time after the transfer of Com Ed's nuclear

1 generating units to the Genco?

2 A. Yes.

308 3 Q. And that continues to be staff's position
4 even after all the parties have submitted their
5 testimony and their rebuttal testimony; isn't that
6 true?

7 A. Yes. But I guess I do need to modify my
8 previous answer and that is to the extent that it is
9 legally permissible, and I did not address that in
10 my testimony.

309 11 Q. Understood. Let me ask you some questions
12 about the overall cost escalation factor which you
13 testified to in the 1999 Rider 31 case. And the
14 factor that resulted in the development of the
15 \$120.9 million decommissioning recovery amount both
16 in that case and that's being used in this case.
17 You were a witness in the 1999 case; isn't that
18 true?

19 A. Yes, I was.

310 20 Q. And you did submit testimony in that regard?

21 A. Yes.

311 22 Q. Isn't it true that using the formula

1 approved by the Commission in the 1997 Rider 31 case
2 for calculation of the overall cost escalation
3 factor, a factor of 4.73 percent was developed?

4 A. I believe the formula might have been
5 modified slightly in the 1999 docket, that I'm not
6 sure of. But the rate that was decided on in the
7 docket 99-0115, actually, I think if you rounded it
8 was 4.74 percent.

312 9 Q. Now a component of the overall escalation
10 factor is the rate of increase in low level waste
11 burial costs, isn't it?

12 A. That's correct.

313 13 Q. Now, in the 1999 case, there was an assumed
14 cap on the increase in low level waste escalation
15 costs of 10 percent; isn't that true?

16 A. That's correct.

314 17 Q. However, the actual three year low level
18 waste burial escalation rate has been more than 10
19 percent, hasn't it?

20 A. For the period '96 through '98, that's
21 correct.

315 22 Q. And in fact, as you state in your own

1 testimony in the chart that we just looked at, it
2 was over that three year period it was 24.2 percent
3 for BWR reactors and 19.4 percent for PWR's; isn't
4 that true?

5 A. That's correct.

316 6 Q. Now, if you had used these actual low level
7 waste burial escalations in the cost escalation
8 formula adopted by the Commission to calculate the
9 overall escalation factor of decommissioning costs,
10 that would result in an escalation of 7.81 percent,
11 wouldn't it?

12 A. I'll accept that subject to check.

317 13 Q. And are you also aware that the escalation
14 for the projected decommissioning fund earning rate
15 that was used by the company in the 1999 case and in
16 this case was 7.3 percent?

17 A. It may have been a little bit higher. My
18 recollection is it was around 7.4 percent, but it's
19 in that ballpark.

318 20 Q. The point is if we use the actual three year
21 escalation for low level waste burial cost, the
22 numbers that actually occurred in the formula, we

1 will get an overall escalation rate increase that
2 exceeds the fund earnings rate of increase, wouldn't
3 we?

4 A. Yes, it would.

319 5 Q. Now, in looking at the chart that you have
6 on Page 9 of your testimony, if you were to look at
7 the three-year compound average inflation rate which
8 we just referred to, the five-year compound rate,
9 the seven-year compound inflation rate, and the
10 ten-year compound average inflation rate for both
11 BWRs and PWRs, is there any year or any period --
12 any one of those periods where the escalation rate
13 has been at 10 percent?

14 A. No.

320 15 Q. In fact, in each of those periods it's been
16 higher than 10 percent, hasn't it?

17 A. That's correct.

321 18 Q. Now, again referring to the low-level waste
19 disposal site issue in your testimony in Rider 31, I
20 think you indicated that you followed the progress
21 of such a site in Illinois.

22 You recall that?

1 A. You're talking about my testimony in the '99
2 docket?

322 3 Q. Yes.

4 A. Yes, I have.

323 5 Q. Is it also -- and I have a copy of your
6 testimony here, I can show it to you.

7 Isn't it also true that you stated,
8 quote, that you have, quote, absolutely no
9 confidence that such a site will be in operation by
10 the year 2012 as planned, unquote?

11 A. That's what my testimony said.

324 12 Q. Would you explain for us how you follow the
13 progress of this site in Illinois?

14 A. Essentially I'm just keeping track of the
15 news stories that might come out on it; and if there
16 has been any progress made.

17 At this point there's been no progress
18 made. It doesn't seem like it's moving anywhere at
19 this point.

325 20 Q. Is that why you have no confidence that it
21 will be in operation by 2012 in Illinois?

22 A. That's correct.

326 1 Q. Directing your attention to the portion of
 2 your testimony that deals with the power purchase
 3 agreement and years five and six, and I think that's
 4 Page 10 of your testimony.

 5 If I understand your testimony correctly,
 6 you would allow a recovery of decommissioning costs
 7 from customers in years five and six of the PPA
 8 under certain circumstances; is that correct?

 9 A. I indicate the certain circumstance here.

327 10 Q. That's the bottom of Page 10?

 11 A. That's right.

328 12 Q. One of those circumstances would have to be
 13 that ComEd would be actually taking power in years
 14 five and six from the nuclear stations that are part
 15 of Genco; isn't that true?

 16 A. That's correct.

329 17 Q. In Mr. Berdelle's rebuttal testimony he has
 18 agreed with that particular condition, has he not?

 19 A. I think he has indicated that he expects
 20 ComEd to take power for years five and six in his
 21 testimony.

330 22 Q. And if ComEd did not take power from years

1 five and six, didn't he say that there would be no
2 charges to customers for decommissioning under the
3 PPA?

4 A. I believe he did indicate that.

331 5 Q. Now, the other condition that you had is
6 that you were concerned that ComEd and the Genco
7 could negotiate any amount for the purchase of power
8 in years five and six and that customers would be
9 subject to take -- paying that amount; isn't that
10 true?

11 A. Can you point to a specific place in my
12 testimony?

332 13 Q. Sure. Page 11, Lines 256 through 258.

14 A. Beginning on Lines 258, my testimony reads
15 to allow further collecting based merely on
16 extension of the agreement would provide great
17 incentive for ComEd and Genco to agree to almost any
18 price.

333 19 Q. And my question is, is that another concern
20 that you have with respect to not providing for
21 collections in years five and six of decommissioning
22 charges from customers in Illinois?

1 A. That's one concern. If they could agree to
2 a price and have an \$120 million riding on that
3 decision, on that agreement, then that provides some
4 incentive to agree to a price.

334 5 Q. All right. You would agree with me that
6 ComEd's rates to its retail customers are frozen in
7 Illinois through 2004, are they not?

8 A. That's correct.

335 9 Q. Does the end of this rate freeze period
10 automatically result in any increase in ComEd's
11 retail rates to customers?

12 A. No, it does not.

336 13 Q. What would ComEd have to do in Illinois to
14 change its retail rates in 2005 or thereafter?

15 A. They would have to request a rate increase.

337 16 Q. And that would be presented to the Illinois
17 Commerce Commission?

18 A. Yes, it would.

338 19 Q. Okay. And isn't it true that in such a
20 proceeding the Commission would look at a variety of
21 factors including ComEd's costs and expenses, its
22 rate of return on equity, its cost of capital, et

1 cetera?

2 A. Yes, they would.

339 3 Q. And the commission would have the authority
4 under the act to either pass on ComEd's request or
5 deny ComEd's request or change its request for a
6 rate increase, wouldn't it?

7 A. That's correct.

340 8 Q. And finally, rates to retail customers would
9 not change without an Illinois Commerce Commission
10 order, would they?

11 A. In this regard, that's correct.

341 12 Q. Turning to another portion of your testimony
13 which deals with nonradiological decommissioning. I
14 want to again first refer back to a piece of your
15 testimony in the 1999 docket which has been taken
16 notice of, administrative notice in this proceeding.

17 And in your testimony there, at
18 Page 13, you stated therefore, comma, I recommend
19 that ComEd be allowed to recover site restoration
20 costs for these stations, referring to the ComEd
21 nuclear general rating stations.

22 Do you generally remember that testimony

1 in the 1999 docket?

2 A. Yes, I do.

342 3 Q. And isn't it true that the basis or at least
4 one of the bases for your recommendation that ComEd
5 recover nonradiological decommissioning was that it
6 had presented convincing evidence to support its
7 conclusion that the structures at its nuclear
8 stations will be unsuitable for reuse and should be
9 demolished soon after cessation of operations?

10 A. That's correct.

343 11 Q. In your testimony in this docket today at
12 Page 6, you say that since -- that there is no legal
13 requirement to for -- to do nonradiological
14 decommissioning and since the Illinois Commerce
15 Commission can't enforce the Genco to do
16 nonradiological decommissioning, then there should
17 be no recovery for that in this proceeding; is that
18 correct?

19 A. Can you point to a specific site in my
20 testimony?

344 21 Q. Sure. I think it's Page 6?

22 MR. REVETHIS: 6, you indicated?

1 MR. HANZLIK: Yeah.

2 THE WITNESS: Is there some specific line numbers
3 you're referring to?

4 MR. HANZLIK: Actually begins at 140 and
5 continues on through the bottom of that page, both
6 of the points are mentioned in that paragraph.

7 THE WITNESS: Could I have the question read back
8 again, please.

9 BY MR. HANZLIK:

345 10 Q. The question was, is it fair to say that the
11 basis for your testimony that there should be no
12 recovery for nonradiological decommissioning in this
13 proceeding today is that there is no legal
14 requirement that currently exists for the Genco to
15 do nonradiological decommissioning work and the
16 Commission can't enforce the Genco to do that work?

17 A. It's one of the reasons, yes.

346 18 Q. Okay. Now, if there were a legal
19 requirement in Illinois to do nonradiological
20 decommissioning, that is the removal of buildings
21 that are dangerous and unsafe at these former
22 generating sites, then you would provide for the

1 recovery of nonradiological decommissioning just as
2 you recommended in the '99 docket, wouldn't you?

3 A. Not necessarily.

4 Another one of my concerns is that the
5 Genco may delay for an extended period of time the
6 nonradiological decommissioning and that could
7 impact greatly the costs, the present value costs of
8 doing that work.

9 (Change of reporters.)

10 MR. HANZLIK: Q But in the proposal today the
11 fixed amount that is being requested,
12 120.9 million for six years, would put that risk on
13 the Genco, wouldn't it.

14 A. If there was a legal requirement and if that
15 requirement was that immediately after ceasing
16 operations, you must remove those structures.

347 17 Q. Now, if it could -- if the Commission could
18 require or ensure that the Genco would perform
19 nonradiological decommissioning immediately after
20 cessation of decommissioning activities, then you
21 would also -- that particular objection that you had
22 would also be dealt with, wouldn't it?

1 A. If the Commission could assure that that
2 would be done, then that would -- it would somewhat
3 lay that concern.

348 4 Q. Isn't it also true that if the Commission
5 doesn't provide for funding for nonradiological
6 decommissioning, then under your scenario it simply
7 won't get done?

8 MR. REVETHIS: I'm sorry, could I have that back.

9 MR. HANZLIK: Sure. Let me restate the question.

349 10 Q. Going back to our discussion -- assuming
11 that there is no law that requires it and there is
12 no jurisdiction of a Commission to provide that the
13 Genco do nonradiological decommissioning, then if
14 the Commission doesn't fund nonradiological
15 decommissioning in this case, it certainly won't get
16 done?

17 A. I don't know if that's true or not but
18 another concern raised in my testimony was that even
19 if the Commission does fund it, it may not get done.

350 20 Q. Isn't there a greater assurance that with
21 nonradiological decommissioning work will be done if
22 the Commission provides for funds for that purpose

1 and ComEd commits that the Genco will do that work
2 then if the Commission does not provide for
3 nonradiological decommissioning funding?

4 MR. REVETHIS: I think the question has been
5 asked and answered. You can answer it again.

6 THE WITNESS: I'm not sure that there is any
7 greater probability.

8 MR. HANZLIK: Q It wasn't probability, it was
9 assurance.

10 A. I'm not sure if there's any greater
11 assurance.

351 12 Q. Turning to Pages 7 and 8 of your testimony
13 dealing with the bottom of Page, 7 license
14 extensions. Do you have that portion of your
15 testimony?

16 A. Yes, I do.

352 17 Q. As I understand the testimony, you have
18 stated and used for your calculation an assumption
19 that there would be an extension in the operating
20 life of two generating stations; is that correct?

21 A. My testimony does not assume the extension
22 of any particular generating units. It assumes a

1 \$20 million benefit by license extension.

353 2 Q. So you have not chosen any specific units or
3 studied any specific units with respect to the
4 likelihood of license extension, have you?

5 A. Not any specific units with regard to the
6 likelihood but I believe it is likely that some
7 number of ComEd's units will have their licenses
8 extended.

354 9 Q. Do you have any opinion as to which stations
10 or units those would be?

11 A. No.

355 12 Q. And the reason you have provide for this
13 offset is your view that an extension would allow
14 more time for earnings on a particular unit trust to
15 accumulate; isn't that true?

16 A. Essentially, it assumes that there will be a
17 longer time for earnings and there will be some
18 positive spread between the inflation rate and the
19 earnings rate.

356 20 Q. And can you predict now going out a number
21 of years that that spread would be favorable
22 throughout that period of time?

1 MR. REVETHIS: I'm sorry. How many years?

2 MR. HANZLIK: Q When there are license
3 extensions wouldn't that delay decommissioning
4 through 2025 or beyond.

5 A. For some units, yes.

357 6 Q. And assuming those are units that we are
7 talking about, such as the Byron and Braidwood
8 units, can you predict today as you're sitting here
9 that the earnings on the funds will exceed the
10 escalation and cost for decommissioning throughout
11 that period of time?

12 A. I can't guarantee that it will but the
13 information we have available at this point I think
14 it's a safe assumption.

358 15 Q. And that information has been the recent
16 experience on fund earning rates?

17 A. Fund earning rates and inflation rate can
18 expect inflation rate.

359 19 Q. But you would agree with me that it is
20 uncertain that these conditions that you experienced
21 in the recent past will prevail throughout this long
22 period of time, wouldn't you?

1 A. Certainly there is an uncertainty.

360 2 Q. Let's see if we can just review briefly what

3 must happen in order for there to be an actual

4 extension in the operating license and life of the

5 station.

6 First, isn't it true that ComEd would

7 have to apply for such an extension to the NRC?

8 A. I believe that's correct.

361 9 Q. And isn't it also true that whether the NRC

10 grants such an extension depends on the maintenance

11 and operating history as well as current NRC rules

12 and regulations?

13 A. I'm not intimately familiar with the

14 requirements but I believe that's one of them.

362 15 Q. And after reviewing the operating and

16 maintenance history of a particular unit or station

17 from which extension is being requested, isn't it

18 true that the NRC can impose certain conditions on

19 the owner and operator of the station to make

20 changes or improvements in the physical plant of

21 that station as a condition to obtain the license?

22 A. I'm not aware of that requirement.

363 1 Q. And isn't it also true that if the NRC
 2 grants a license extension, then the entity to which
 3 it is granted still must determine whether it is
 4 economically viable to operate that station given
 5 the conditions that may be imposed and the economic
 6 conditions that may exist?

 7 A. Of course, they are not required to run the
 8 unit for an additional 20 years.

364 9 Q. Now, the list that you attached to your
 10 testimony of license extension activity does not
 11 list one Commonwealth Edison Company unit, does it?

 12 A. No, it does not.

365 13 Q. And isn't it also true that at this point in
 14 time all that Commonwealth Edison Company is doing
 15 is studying the issue of whether to apply for a
 16 license extension for its -- for certain nuclear
 17 units?

 18 A. That's my understanding.

366 19 Q. And that's a prudent business thing to do,
 20 isn't it?

 21 A. Certainly it should be studied before you
 22 apply for the extension.

367 1 Q. And you're not aware that ComEd has made any
 2 decision to apply for a license extension at this
 3 time, are you?

 4 A. Not any concrete decisions, no.

 5 MR. HANZLIK: No further questions.

 6 JUDGE HILLIARD: Who is next?

 7 JUDGE CASEY: Ms. Doss.

 8 MS. DOSS: Your Honor, I had originally estimated
 9 ten minutes for cross but it may be a little longer
 10 given the line of questions that
 11 Mr. Hanzlik just asked.

 12 JUDGE HILLIARD: Okay.

 13 CROSS-EXAMINATION

 14 BY

 15 MS. DOSS:

368 16 Q. Good afternoon, Mr. Riley, Leijuana Doss on
 17 behalf of the People of Cook County.

 18 A. Good afternoon.

369 19 Q. Referring to Page 9 of your direct
 20 testimony, the chart or table on 2.2, is this the
 21 same table that was used presented in
 22 Docket 99-0115?

1 A. The corrections were not made in 99 -0115
2 until the briefing stage. I was not able to pick
3 that up in my direct filing of this docket.

370 4 Q. Now, in this table you used new reg 1307
5 revision 8 for making your calculations, correct?

6 A. Yes. That was the most recent document at
7 that time.

371 8 Q. So in this table it represents you
9 subtracted the South Carolina State disposal tax,
10 correct?

11 A. Yes, I did.

372 12 Q. So these inflation rates, the average
13 compound inflation rates, included are the result of
14 your calculations minus the South Carolina State
15 disposal tax?

16 A. That's correct.

373 17 Q. And you subtracted the South Carolina waste
18 disposal tax because you don't believe that it has
19 relevance to an Illinois facility; is that correct?

20 A. That's correct.

374 21 Q. Now, are you familiar with the study done by
22 Gene Vance, which is regarding low level waste

1 disposal?

2 A. It's been a number of years. I believe that
3 was presented in the 19970110. I haven't reviewed
4 it recently but I'm generally familiar with it.

375 5 Q. So is it your understanding that that study
6 is still being used for the calculation of low level
7 waste disposal in this particular docket?

8 A. Yes, it is.

376 9 Q. And do you know what the inflation rate that
10 Mr. Vance predicted in his study for an Illinois
11 facility?

12 A. No, I don't remember what that figure was.

377 13 Q. Would you accept 5 percent subject to check?

14 A. I'll accept that number.

378 15 Q. Now, in Mr. Speck's rebuttal testimony --
16 and Mr. Hanzlik asked you about this question as
17 well -- he calculates 7.48 percent as the escalation
18 rate for burial charges.

19 Do you know how he derived at that
20 number?

21 A. No, I do not.

379 22 Q. So are you still holding to your testimony

1 that the escalation rate for burial charges should
2 be 10 percent?

3 A. That's correct. That's what ComEd has
4 presented in this proceeding.

380 5 Q. So you still believe that ComEd is using a
6 10 percent escalation rate for burial charges?

7 A. Yes.

381 8 Q. Okay. And how would -- but ComEd and
9 Mr. Speck's testimony indicates that they are using
10 a lower escalate -- overall escalation rate of 4.11
11 percent. Do you know where that number is derived
12 from?

13 A. I believe that figure relates to what the
14 inflation rate would have to be in order to have the
15 trust fully funded based on a six-year collection of
16 \$120.933 million.

382 17 Q. So that's not based on calculations using
18 Rider 31?

19 A. That's correct. I think essentially it was
20 intended to be used to show what risk the company
21 was exposing themselves to.

383 22 Q. So does ComEd use new reg 1307 in the

1 calculation of low level waste from your
2 understanding?

3 MR. REVETHIS: Well, I have patient up until now
4 but I think more appropriately the line of
5 cross-examination should be to Mr. Riley's testimony
6 directly and how he has arrived at whatever
7 conclusions he has arrived at as opposed to quizzing
8 him as to the methodology of other witnesses in the
9 docket.

10 Certainly Mr. Riley has set forth his
11 calculations and results and conclusions and
12 certainly counsel is free to explore how Mr. Riley
13 arrived at his conclusion but I think it's
14 inappropriate and beyond the scope of his testimony
15 certainly as to quizzing him as to the methodologies
16 of other witnesses.

17 MS. DOSS: Your Honor, with respect to Mr. Speck
18 indicated -- challenged Mr. Riley's calculations and
19 said that ComEd was not proposing 4.11 percent and
20 in this particular -- I am sorry. That they were
21 not proposing 4.73 percent as an overall escalation
22 rate in this particular docket.

1 Mr. Riley's testimony indicates that he
2 understands that to be the escalation rate. I am
3 just trying to understand or ask Mr. Riley whether
4 or not he knows how Mr. Speck derived at these
5 numbers and challenged it, if he knows.

6 JUDGE HILLIARD: As I recall Speck's testimony,
7 he essentially said that the 4.11 rate is not one
8 that he concurs with. It's a pull out number from
9 120 million as Mr. Riley has more or less indicated.

10 MS. DOSS: For the six years.

11 JUDGE HILLIARD: Right.

12 MS. DOSS: Right. But, your Honor, in the prior
13 docket, Rider 31 was used and I'm just wondering if
14 this 4.11 percent is pursuant to Rider 31 according
15 to Mr. Riley's understanding.

16 JUDGE HILLIARD: I'm going to sustain the
17 objection.

18 MR. REVETHIS: Thank you, sir.

19 MS. DOSS: Q Now, Mr. Hanzlik asked you about an
20 Illinois facility and said that in the
21 99 docket and you agreed that an Illinois facility
22 is not likely to be established in 2012; is that

1 correct.

2 A. That's correct.

384 3 Q. Now, you chose 2012. Is that the year that
4 you believe that there will be decommissioning and
5 decontamination?

6 A. A couple of years ago there was a bill that
7 was signed by Governor Edgar which delayed when the
8 Illinois facility needed to be opened until 2012.
9 That's the basis for my 2012 figure.

385 10 Q. Okay.

11 A. And just coincidentally, that does coincide
12 with when the decommissioning work would be taking
13 place at Commonwealth Edison's units.

386 14 Q. And which unit would that would? Would it
15 be Dresden?

16 A. Both Dresden and Quad Cities were that time
17 frame as well as Zion. There would have been three
18 stations.

387 19 Q. Now, are you familiar with the -- you
20 mentioned legislation. Are you familiar with the
21 Illinois low level waste task group?

22 A. I'm not particularly familiar with what they

1 have been doing.

388 2 Q. Have you heard of the Illinois low level
3 waste task group?

4 A. I believe so, yes.

389 5 Q. And from your -- what you do know, what is
6 the Illinois low level waste task group?

7 A. I believe they are charged with finding and
8 siting a low level waste burial facility in
9 Illinois.

390 10 Q. Now, have you ever spoken with Thomas
11 Ortoglar, he's the director of the Illinois
12 Department of Nuclear Safety?

13 A. I have not spoken with Tom but I have --
14 it's been a while. I have spoken to some of the
15 staff members at the Department of Nuclear Safety.

391 16 Q. How about Michael Klebe?

17 A. I don't believe so, no.

392 18 Q. Do you know that he is the chief of the low
19 level radioactive waste management?

20 MR. REVETHIS: I'm going to object as to the
21 relevance as to this witness' testimony. It's
22 clearly inappropriate.

1 MS. DOSS: Well, your Honor, the testimony is
2 that ComEd is using an Illinois facility. And I am
3 just trying to question Mr. Riley on his knowledge
4 of low level waste disposal in Illinois. He has
5 indicated that he has no confidence in an Illinois
6 facility being established. I just want to see the
7 extent to which he has this lack of confidence.

8 MR. REVETHIS: I'm going to also object to the
9 characterization of the witness' testimony and I
10 think the whole line is inappropriate as to running
11 a quiz show as to who's involved in certain
12 governmental agencies certainly doesn't get to
13 anything substantive regarding this witness'
14 testimony.

15 JUDGE HILLIARD: Sustain both objections.

16 MR. REVETHIS: Thank you, sir.

17 MS. DOSS: Q Mr. Riley, are you familiar with
18 the current waste volumes of low level waste in
19 Illinois.

20 A. No, I'm not.

393 21 Q. Would you agree or disagree with this
22 statement that waste volume generation rates

1 increase due to the decommissioning of nuclear power
2 stations, that is not until waste volume generation
3 rates increase due to decommissioning of nuclear
4 power stations that the facility becomes
5 economically viable?

6 MR. REVETHIS: I'm going to have to have that
7 question back, if I may.

8 MS. DOSS: I'll repeat it.

394 9 Q. Would you agree or disagree with this
10 statement, it is not until waste volume generation
11 rates increase due to the decommissioning of the
12 nuclear power stations that the facility becomes
13 economically viable?

14 A. I believe that's the reason why the Illinois
15 facility was delayed until 2012.

395 16 Q. And is that because that the volume of low
17 level waste was decreasing?

18 A. I'm not sure if it was necessarily because
19 it was decreasing as much as there just wouldn't be
20 enough volume there to make the facility viable.

396 21 Q. So would you agree with this statement, that
22 the economic feasibility of developing, constructing

1 and operating a low level radioactive waste disposal
2 facility is not feasible at today's low level waste
3 radioactive waste volumes?

4 MR. REVETHIS: I am not certain the witness'
5 testimony addresses this. It's irrelevant to his
6 testimony. Do you have point of reference in his
7 testimony.

8 MS. DOSS: Well, this is based on his testimony
9 today that he has lack of a confidence as far as a
10 low level waste disposal facility being built by
11 2012. I'm questioning him on his confidence.

12 In addition, Mr. Riley also has indicated
13 that he receives a 10 percent annual inflation rate
14 for low level waste disposal and I'm questioning him
15 on that as well.

16 JUDGE HILLIARD: Overruled

17 THE WITNESS: Could I have the question read
18 back, please.

19 (Record read as requested.)

20 THE WITNESS: I don't know. I assume that's not.

21 MS. DOSS: Q What was your answer.

22 A. I don't know that it is.

397 1 Q. Would you agree that the necessity for a low
 2 level waste disposal facility is greater at the time
 3 that decommissioning and decontamination begins?
 4 A. To the extent that there is much larger
 5 volumes at that time, yes.

398 6 Q. Would you agree that it is possible that
 7 Illinois can finance low level waste disposal?
 8 MR. REVETHIS: I'm sorry. May I have that back.
 9 (Record read as requested.)

 10 MR. REVETHIS: I think it is calling for the
 11 witness to speculate. It is certainly not a part of
 12 his testimony as to what Illinois can and cannot
 13 afford. Is that the question?

 14 MS. DOSS: At least from your understanding of
 15 why Illinois delayed it until 2012. He indicated
 16 that the legislature delayed it until 2012.

 17 MR. REVETHIS: He didn't speculate as to whether
 18 --

 19 JUDGE HILLIARD: Sustained.

 20 MR. REVETHIS: Thank you, sir.

 21 MS. DOSS: Q Are you familiar that Utah is
 22 currently accepting low level waste.

1 A. There is a facility in Utah which accepts
2 certain low level waste.

399 3 Q. Are you familiar that Utah recently applied
4 to accept low level waste types A through C.

5 A. Yes, I am.

400 6 Q. Is it possible that Utah could be considered
7 as a proxy for low level waste disposal?

8 MR. REVETHIS: For Illinois waste?

9 MS. DOSS: For a low level waste disposal far
10 Illinois.

11 MR. REVETHIS: I think, again, we're asking the
12 witness to speculate and it is inappropriate.

13 JUDGE HILLIARD: Sustained.

14 MS. DOSS: Q Do you know the cost of low level
15 waste disposal in Utah.

16 A. I'm not sure but I think it's around \$80 a
17 cubic foot.

18 MS. DOSS: No further questions, your Honor.

19 JUDGE CASEY: Mr. Jolly.

20 MR. JOLLY: Mr. Schlissel was able to make some
21 modifications to his travel schedule so if you want
22 to take that into consideration with respect to

1 lunch.

2 MR. REVETHIS: I would like to finish Mr. Riley
3 before lunch if that's agreeable.

4 JUDGE CASEY: That's fine.

5 MR. HANZLIK: May I just ask when would we start
6 Mr. Schlissel?

7 JUDGE CASEY: Not until Mr. Riley is done.

8 MR. HANZLIK: Do you plan on taking a break or
9 not.

10 JUDGE CASEY: We will after Mr. Riley is done.

11 JUDGE HILLIARD: Let's talk about that part of
12 the schedule when we are through with Mr. Riley.

13 MR. HANZLIK: Thank you.

14 MR. KAMINSKI: Good afternoon, Mr. Riley. Mark
15 Kaminski.

16 CROSS-EXAMINATION

17 BY

18 MR. KAMINSKI:

401 19 Q. Question -- I believe it is on -- referring
20 to Page 7 of your direct testimony, on Line 175
21 through 178. You stated that removing site
22 restoration costs reduces annual cost of service by,

1 approximately, \$20.9 million; correct?

2 A. That's correct.

402 3 Q. How did you arrive at that number?

4 A. That number was arrived at in response to a

5 Commonwealth Edison data request. It was ENG 1.8.

403 6 Q. Did you perform an independent calculation

7 to arrive at that number?

8 A. Yes, I did.

404 9 Q. What were they?

10 A. Essentially what ENG 1.8 provides is the

11 cost of service for each -- cost of service for

12 decommissioning for each individual unit with the

13 exclusion of site restoration. So if you add up the

14 figures in the ENG 1.8 and subtract that from

15 Commonwealth Edison's request of \$120.9 million, it

16 will result in a figure of 21 million.

405 17 Q. So you accepted the numbers that ComEd gave

18 you regarding the difference between the two?

19 A. Yes, I did.

406 20 Q. And you didn't use the wrong number provided

21 by ComEd in its studies or apply different

22 escalation factors to consider that?

1 A. What was the last part of that question with
2 regard to escalation factors.

3 Q. We will ask it in two questions then.

4 Did you use the raw numbers provided by
5 ComEd to determine whether to find out what the
6 difference is between site restoration cost included
7 and not included?

8 MR. REVETHIS: Are you asking if he reviewed them
9 in coming to his conclusion?

10 MR. KAMINSKI: I am asking if he used those
11 numbers to determine the number that we got going
12 back to the first question where he got the 20.9
13 million

14 THE WITNESS: I guess I'm not clear as to what
15 you mean by the raw numbers.

16 MR. KAMINSKI: Q The numbers that are required
17 -- if you were to look at the numbers provided by
18 TLG Services provided the cost of decommissioning
19 and then apply an escalation factor to that and then
20 compare that against the numbers that they're asking
21 for and determine the difference between that and
22 decommissioning, just the radiological costs.

1 A. I did not do an independent analysis of what
2 the cost of service would be without site
3 restoration.

408 4 Q. Referring to Page 10 of your direct
5 testimony on Line 237 through 240, you state that
6 under the same assumptions that ComEd finds
7 reasonable in Docket 99-0115, license extension for
8 only four of ComEd's ten units reduces annual
9 decommissioning collections by \$36.9 million per
10 year, correct?

11 A. That's correct.

409 12 Q. And how did you arrive at that number?

13 A. That number was indicated in ComEd's
14 response to Citizens Utility Board Request No. 5.
15 Essentially, I believe that was the difference in
16 the cost of service between ComEd's proposal here
17 and what the cost of service would be if those four
18 units had their licenses extended.

410 19 Q. And do you know what assumption ComEd used
20 to arrive at that number?

21 A. I believe they used the 4.74 percent -- 4.74
22 percent inflation rate as well as their return on

1 trust, around 7.4 percent.

411 2 Q. And did you do any independent evaluation of
3 other possible escalation rates?

4 A. No, I did not.

412 5 Q. Referring again to Page 10 on Lines 240
6 through 241, you recommend that the Commission
7 reduce collections by \$20 million per year to
8 reflect possible license extensions, correct?

9 A. That's correct.

413 10 Q. And how did you arrive at that number?

11 A. That number is essentially about half of
12 what would be, I guess, saved under the assumption
13 that four units had their licenses extended but it
14 doesn't assume any particular units having their
15 license extended.

414 16 Q. You refer to that as a conservative
17 approach, correct?

18 A. That's correct.

415 19 Q. So your conservative approach consisted of
20 cutting the number in half, essentially?

21 A. That's right.

416 22 Q. Referring to the ComEd petition, do you have

1 that available to you?

2 A. No, I don't.

417 3 Q. Okay. Well, I'm asking about
4 Attachment B. I'll get it. The table on Page 1 of
5 Attachment B showing the cost of service figures
6 including nonradiological decommissioning costs.
7 According to this table, the cost of service from
8 Byron 1 is 0.0 for cost of service, correct?

9 A. That's correct.

418 10 Q. And according to the same table the cost of
11 service for Braidwood 1 is also 0.0, correct?

12 A. That's correct.

13 MR. KAMINSKI: What is the cross number we are at
14 right now? 8 is it or 9?

15 MR. REVETHIS: We had 8, I believe. I don't
16 believe there has been one since. Staff Cross 8, I
17 believe is the last one.

18 (Whereupon, People's
19 Cross Exhibit No. 9 was
20 marked for identification.)

21 MR. KAMINSKI: May I approach the witness?

22 I offer to you what will be labeled as

1 People's Cross 9 for identification purposes, which
2 is the staff data request -- response to staff's
3 data request labeled ENG 1.8, which we referred to
4 earlier and you also referred to in your direct
5 testimony. Note 2 on Page 7, I believe.

419 6 Q. Are you familiar with this?

7 A. Yes, I am.

420 8 Q. This response contains the cost of service
9 amounts excluding site restoration costs, correct?

10 A. That's correct.

421 11 Q. Could you please read me the amounts for
12 Byron 1?

13 A. Zero.

422 14 Q. And Braidwood 1?

15 A. Zero.

423 16 Q. Would you agree that in this case a plant
17 with a cost of service of zero indicates the
18 decommissioning fund of that plant has -- are
19 adequately funded?

20 A. That would be my assumption. However, it's
21 not clear exactly how -- I guess, that would be my
22 assumption yes.

424 1 Q. And, therefore, if they are adequately
 2 funded, they don't require further collections,
 3 correct?

 4 A. That's correct.

425 5 Q. Therefore, according to -- in the response
 6 to ENG N. 1.8, People's 9, both Byron 1 and
 7 Braidwood 1 are presently adequately funded,
 8 correct?

 9 A. It appears that way.

426 10 Q. Now, we have discussed -- we have shown on
 11 Attachment B that I handed to you earlier from
 12 ComEd's petition where it states that with site
 13 restoration the cost of service for Byron 1 is zero,
 14 correct?

 15 A. That's correct.

427 16 Q. And Braidwood 1 is zero, correct?

 17 A. That's correct.

428 18 Q. And we have before us responses from ComEd
 19 to Staff Data Request 1.8 that without site
 20 restoration Byron 1's cost of service is zero and
 21 Braidwood 1's cost of service is zero; is that
 22 correct?

1 A. That's correct.

429 2 Q. Now, isn't it logical that assuming that
3 site restoration cost is several million dollars for
4 each unit and that removing site restoration cost
5 will result in a lower number?

6 A. Yes.

430 7 Q. And that would result in a cost of service
8 that is essentially less than zero, correct?

9 A. Correct.

431 10 Q. Would you agree that in that case a cost of
11 service that is less than zero indicates that the
12 decommissioning trust funds of those plants are over
13 funded?

14 MR. REVETHIS: Excuse me but this line of
15 questioning is more appropriately addressed to the
16 author of the response and not to this witness.

17 MR. KAMINSKI: This witness has testified already
18 that he has used these numbers to come up with his
19 numbers and I'm allowed to probe into how far he's
20 looked into it.

21 JUDGE HILLIARD: Overruled

22 THE WITNESS: Can I have the question back

1 please.

2 (Record read as requested.)

3 MR. KAMINSKI: Q I'll start over again. I'll
4 ask the question again.

5 Would you agree in this case a cost of
6 service that is less than zero indicates that the
7 decommissioning trust funds of those plants are over
8 funded.

9 A. Well, yes.

10 MR. HANZLIK: There is no indication that
11 anything is less than zero in these documents.

12 MR. REVETHIS: Certainly the document speak for
13 itself.

14 MR. KAMINSKI: And, therefore, Byron 1 and
15 Braidwood 1 would be presently over funded if you
16 took away site restoration cost, correct.

17 A. It's possible.

432 18 Q. Did you consider this possible over funding
19 when coming up with your figure along with a
20 reflection of \$78.9 million over four years?

21 A. No.

22 MR. KAMINSKI: No more questions.

1 JUDGE HILLIARD: Would it change your answer any,
2 Mr. Riley?
3 THE WITNESS: I don't know that it would.
4 JUDGE HILLIARD: Why is that?
5 THE WITNESS: It's not clear how ComEd
6 necessarily apportions how much goes into each one
7 of the trust funds. I don't know how far negative
8 Byron would be -- Byron and Braidwood 1 would be if
9 you removed those site restoration expenses.
10 MR. KAMINSKI: May I ask one more question then?
433 11 Q. Did you look into possibly how far they
12 would go into the negative?
13 A. No.
14 MR. KAMINSKI: Thank you.
15 JUDGE HILLIARD: Does anybody else have any cross
16 for this witness?
17 Mr. Robertson.
18 MR. ROBERTSON: A couple of questions.
19 MR. KAMINSKI: I forgot to ask that People's
20 Exhibit 9 be admitted into evidence.
21 JUDGE CASEY: Were there any objections?
22 All right. People of the State of

1 Illinois Cross Exhibit No. 9, which is a staff data
2 request, ENG 1.8 is admitted.

3 JUDGE HILLIARD: Do you want to identify the
4 other exhibit that you presented the witness for
5 identification purposes.

6 MR. KAMINSKI: Attachment B? That is Attachment
7 B to the original ComEd petition.

8 JUDGE HILLIARD: Okay.

9 (Whereupon, People's
10 Cross Exhibit No. 9 was
11 admitted into evidence.)

12 CROSS-EXAMINATION

13 BY

14 MR. ROBERTSON:

434 15 Q. Mr. Riley, can you turn to Page 8 of your
16 direct testimony, Staff Exhibit 2.

17 A. Okay.

435 18 Q. Now, at Lines 202 to 203, you indicate that
19 of the units that have -- that are potential
20 candidates for license extension, there are 24 and
21 this is roughly 25 percent of the operating reactors
22 in the country; is that correct?

1 A. That's correct.

436 2 Q. Now, do you -- are you aware that the

3 Nuclear Regulatory Commission by rule indicates that

4 no unit can apply for a license extension if it has

5 more than 20 years remaining on its operating

6 license?

7 A. Yes.

437 8 Q. Would it be safe to say that this

9 percentage, if one were to consider the universe of

10 units that are eligible to apply instead of the

11 total number of units in the country, that your

12 percentage here would increase?

13 A. Yes, it would.

438 14 Q. And you have not made that calculation; is

15 that correct?

16 A. No, I have not.

439 17 Q. Now, also with regard to -- there's been

18 some discussion in your prior cross-examination

19 about the escalation rate for disposal of low level

20 nuclear waste; is that correct?

21 A. Yes

22

440 1 Q. And I have heard an escalation rate as high
 2 as 22 percent or thereabouts in that discussion; is
 3 that correct?

 4 A. Thereabouts, yes.

441 5 Q. Now, it's also my understanding you don't
 6 agree with that rate; is that correct?

 7 A. I don't agree with the use of that rate for
 8 setting rates in this proceeding.

442 9 Q. Now, is the cost of disposal of nuclear
 10 waste part of the function of volume of the waste to
 11 be disposed of?

 12 A. You mean is there volume discounts?

443 13 Q. No. I mean as to volume -- if you have 100
 14 tons of low level waste to dispose of, does that
 15 generally cost you more than disposing of 10?

 16 A. Yes.

444 17 Q. Are you aware that the level of --

 18 MR. REVETHIS: The total cost or cost per ton?

 19 MR. ROBERTSON: Total cost, correct.

445 20 Q. My answer is for total cost?

 21 A. That's correct.

446 22 Q. So that if the total cost of nuclear

1 decommissioning combined or declined from \$100 to \$1
2 -- strike that.

3 If the total cost of disposal of low
4 level nuclear waste climbed from \$100 to \$1 because
5 of decline in volume, would the impact of the 22
6 percent, the decommissioning rate, escalation rate
7 be as large for the \$1 as it was for the \$100?

8 A. No.

447 Q. Would you be willing to accept, subject to
9 check, that in the United States Nuclear Regulatory
10 Commission Information Digest, 1998 Edition, at Page
11 61 it shows a chart which indicates that the volume
12 in thousands of cubic feet of nuclear -- low level
13 nuclear waste received at US disposal facilities
14 declined from 2,619,000 (sic) of cubic feet in 1984
15 to 422,000 of cubic feet in 1996?

17 MR. REVETHIS: There's no foundation for this.

18 JUDGE HILLIARD: Sustained.

19 MR. ROBERTSON: I understand the objection but
20 the witness has testified already that as volume
21 declines, total cost will decline. And all I'm
22 asking him to do is to accept subject to check that

1 the volume of nuclear waste disposal in the United
2 States has declined significantly from 1984 to 1996
3 and I have given him a source of a published
4 document from the Nuclear Regulatory Commission.

5 JUDGE HILLIARD: I'll overrule my previous ruling
6 of sustaining the objection.

7 THE WITNESS: Could I see the document?

8 MR. REVETHIS: For the record, there's been no
9 foundation that the witness has ever reviewed this
10 document or relied on it in any way and that was the
11 purpose of my objection. To just put the
12 publication in front of a witness. I don't know if
13 he is asking him to verify it or that it says what
14 it says or it speaks for itself.

15 JUDGE HILLIARD: We will get to that.

16 MR. REVETHIS: All right.

17 THE WITNESS: It does show a decline from a
18 period of, roughly, 1984 through 1996 but I also
19 notice that in the little pie chart it indicates
20 that, apparently, it used Handford and Barnwell as
21 the two facilities and there is also a facility in
22 Utah called Envirocare. And if that wasn't

1 included, that may be why there is the reduction.

2 MR. REVETHIS: Again, the witness has -- it has
3 not been established the witness has seen this
4 publication before or relied upon it in any way
5 before.

6 JUDGE HILLIARD: Well, he's answered the question
7 and I think that with qualifications he has agreed
8 with the general proposition that the level waste
9 has declined within a certain period.

10 You may proceed.

11 MR. ROBERTSON: Q Do you anticipate, Mr. Riley,
12 that it is reasonable to assume that the level of --
13 strike that.

14 And if I understood the prior testimony,
15 one of the reasons the Illinois site has not been
16 developed is the lack of volume of low level waste;
17 is that correct.

18 A. I believe that's one of the reasons, yes.

19 MR. ROBERTSON: No further questions. Thank you.

20 JUDGE HILLIARD: Anybody else have any cross? We
21 have a couple questions.

22

1 EXAMINATION

2 BY

3 JUDGE HILLIARD:

448 4 Q. Your direct testimony at Page 5.

5 A. Yes.

449 6 Q. Lines 120 to 122.

7 A. Yes.

450 8 Q. You state, I estimate that removing 71.7

9 million from the estimated decommissioning cost for
10 the Zion station will reduce the cost of service by
11 about 1.9 million per year.

12 Can you tell us how you -- there is a big
13 jump between those two numbers and we wondered how
14 you came up with that.

15 A. Essentially what I did is I had a ratio for
16 the cost of service for the Zion station both with
17 and without that 71.7 million. So if you look at
18 what the cost is, the present value cost is to
19 decommission the Zion station, it is -- I don't
20 remember exactly what that is -- subtract the 71.7
21 million and see what percent that is of it and then
22 I subtracted about the same percentage from the cost

1 of service. So that's why I said it was an
2 estimate. I didn't do a complete cost of service
3 analysis by changing all of the assumptions.

451 4 Q. Is 71.7 -- what was the ratio, the 71.7
5 million to 5.4 billion or what?

6 A. No. It was only applied to the Zion station
7 cost. The ratio -- 71.7 million was the
8 decommissioning cost of the Zion station and
9 represents, I don't know, maybe 10 percent,
10 something like that. Then I subtracted that
11 percentage from the Zion cost of service.

452 12 Q. Present value?

13 A. There is no present value. Cost of service
14 for Zion was -- I'm not sure what that figure was.
15 It is in Mr. Berdelle's Attachment A and I just
16 subtracted a certain percentage from that -- or
17 multiplied that by that percentage.

453 18 Q. What's your understanding of the -- under
19 the revised proposal -- that's ComEd's testimony --
20 what's your understanding of the pricing provision
21 of power for energy in
22 response 6 of the PPA?

1 A. I haven't looked at those.

2 JUDGE CASEY: Q With respect to years five and
3 six under the PPA, you were looking for some
4 assurances even before that we could extend the
5 decommissioning cost for those years.

6 Does that -- are your -- is one of your
7 assurances that 100 percent of ComEd's usage be made
8 part of that five and six years or can it be some
9 lesser amount?

10 THE WITNESS: If it was a lesser amount and if
11 you followed the approach that the Commission used
12 in IPE, then you would recover a lesser percentage
13 of the decommissioning cost.

14 JUDGE HILLIARD: Q Your adopting that solution
15 to the proposition or the proposal.

16 A. Given the other concerns and my testimony, I
17 am not sure if I can sit here and represent, well,
18 if they sign that contract for 50 percent of the
19 output of the units, well, you should just multiply
20 that by 50 percent.

21 If they came in and requested that that
22 date in the future to collect for those two years

1 there may be other things that the Commission might
2 want to look at such as what's the progress of a
3 license renewal and that sort of thing.

454 4 Q. On that issue, you consider that Dresden --
5 when you talk about a site, that's each individual
6 reactor. It's like Dresden is two units. Some of
7 these other places they have two -- you consider
8 each one of those to be a site. So when you talk
9 about four units, you are talking about four actual
10 plants; is that right?

11 A. Dresden, two and three and Quad Cities, one
12 and two.

455 13 Q. In the event that license extensions for all
14 four are those plants were sought, would you support
15 a reduction of the amount to be paid as
16 decommissioning cost of \$36.9 million?

17 A. Assuming none of the other assumptions
18 change, yes. And the further assumption is if they
19 seek those extensions that they are granted.

456 20 Q. Certainly.

21 Do you agree that the approximate cost of
22 decommissioning all of the plants is this \$5.64

1 billion figure?

2 A. The reason I hesitate is that I'm not sure
3 if that's the present value cost or the future value
4 cost and if it includes site restoration or not. My
5 feeling is that figure is -- the future value cost
6 of it includes site restoration.

457 7 Q. But my question to you then is do you agree
8 with that number?

9 A. I'm not sure what you mean by do I agree
10 with that number? Would I accept that number as the
11 decommissioning estimate?

458 12 Q. Your modification of the ComEd proposal
13 incorporates certain assumptions, the amount of
14 money that's to be paid by rate payers during this
15 interim period is to go towards the payment of all
16 of the decommissioning costs.

17 Do you agree that your proposal agreed
18 with the premise that the cost of the
19 decommissioning is \$5.64 billion or do you think it
20 is a lesser amount because of the cost of non -- the
21 removal of the cost of nonradiological
22 decommissioning or for any other reason?

1 A. I have accepted ComEd's decommissioning cost
2 estimate with the exception of site restoration,
3 spent fuel storage at Zion and the potential for
4 license renewal. So to that extent I would agree
5 with ComEd's decommissioning cost estimate.

459 Q. Are you familiar with Mr. Boddum's
6 (phonetic) proposal to allocate decommissioning
7 costs between rate payers and Genco based upon the
8 share of the license life that each party takes --
9 has the benefit of?

11 A. Generally.

460 Q. Do you agree with this proposal?

13 A. It's a proposal. It is different -- it is a
14 different methodology than the Commission has used
15 in the past. For example, IPE an estimate of the
16 methodology that I proposed in this proceeding, I'm
17 not sure that I could sit here and say, well, that
18 can't be done.

461 Q. Do you see any problems with that proposal?

20 A. Not as I sit here right now.

462 Q. There was some question earlier about the
22 escalation rate. You may have answered this but

1 what do you think the best estimate of the
2 escalation rate is for the purpose of this
3 proceeding?

4 A. The overall escalation rate?

463 5 Q. Yes, sir.

6 A. 4.73, 74 percent.

7 JUDGE HILLIARD: That's all of the questions I
8 have. Is there anything on redirect?

9 MR. REVETHIS: If we could have a few moments.

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1 (Whereupon, CUB DT
2 Exhibit No. 1.2 was marked
3 for identification.)

4 (Whereupon, IIEC
5 Exhibit No. 1 was marked
6 for identification.)

7 (Change of reporters.)

8 JUDGE CASEY: Back on the record.

9 Mr. Revethis, do you have any redirect?

10 MR. REVETHIS: No. Thank you so much, your
11 Honor. There will be no redirect of Mr. Riley.

12 JUDGE CASEY: Mr. Riley is excused. At this
13 point then we're going to adjourn until 1:45 and
14 we'll begin examination of Mr. Schlissel.

15 (Whereupon, a luncheon
16 recess was taken.)

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1 JUDGE CASEY: Back on the record.

2 Time is now 1:53, go back on the record.

3 We have Mr. Schlissel's testimony now; is
4 that correct?

5 MR. JOLLY: Correct.

6 JUDGE CASEY: Mr. Schlissel, want to stand to be
7 sworn.

8 (Witness sworn.)

9 JUDGE CASEY: Mr. Jolly, please proceed.

10 MR. JOLLY: Thank you.

11 DAVID A. SCHLISSEL,
12 having been called as a witness herein, after having
13 been first duly sworn, was examined and testified as
14 follows:

15 DIRECT EXAMINATION

16 BY

17 MR. JOLLY:

464 18 Q. Mr. Schlissel, please state your name and
19 give your business address for the record.

20 A. My name is David, middle initial A.,
21 Schlissel, S-c-h-l-i-s-s-e-l.

22

1 My business address is Schlissel
2 Technical Consultants, Inc., 45 Horace, H-o-r-a-c-e,
3 Road, in Belmont, Massachusetts.

465 4 Q. I'm going to show you a document that has
5 been marked as CUB DT Exhibit No. 1.2. It's a
6 document with a cover page, 34 pages of typewritten
7 text in question and answer form and one attachment
8 which is your curriculum vitae.

9 And I ask you is this the direct
10 testimony you have prepared in this proceeding?

11 A. Yes.

466 12 Q. Are there any changes, corrections or
13 modifications you would like to make to the
14 testimony at this time?

15 A. Yes. I have a couple of typo -- three typos
16 I'd like to correct.

17 JUDGE CASEY: Before we go through that, have
18 these corrections been made in the copies that have
19 been given to the court reporter?

20 MR. JOLLY: Yes.

21

22

1 THE WITNESS: The first typo is on Page 5 --
2 Page 4, Line 5. The first word, that, t-h-a-t,
3 really should be than, t-h-a-n.
4 Then on Page 27, Line 7, the number 4.84
5 should be 4.73.
6 And on Page 28, Line 4, the same change,
7 the number 4.84 should be 4.73.
8 JUDGE HILLIARD: Line 1?
9 THE WITNESS: I'm sorry, Line 4 on Page 28, the
10 number 4.84 should be 4.73.
11 JUDGE HILLIARD: At my copy it appears to be
12 Line 1 on Page 28.
13 MR. JOLLY: That's where it appears in my copy,
14 too.
15 THE WITNESS: I'm sorry, it appears on Line 4 in
16 my copy, but we have an extra copy. I'll make sure
17 that --
18 JUDGE CASEY: So that the record is clear.
19 THE WITNESS: It's line 1.
20 JUDGE CASEY: Line 28, Line 1, the number has
21 been changed from 4.84 to 4.73.
22

1 THE WITNESS: Correct. And the preceding change
2 should have been on page -- on Page 27, Line 4 of
3 the official copy.

4 JUDGE HILLIARD: That's the way mine appears.

5 THE WITNESS: Okay.

6 BY MR. JOLLY:

467 7 Q. At Page 5 of your direct testimony, you
8 state that at the time of the submission of your
9 direct testimony that Commonwealth Edison Company
10 had not submitted responses to CUB's fifth and sixth
11 data request.

12 Since that time, have you had an
13 opportunity to review any of the responses to those
14 data requests?

15 A. I have had a very limited opportunity to
16 review some of the data requests. I still have not
17 seen all of the responses that the company has
18 provided to CUB nor have I had anything more than a
19 fleeting opportunity to review the responses that I
20 haven't been able to review.

21

22

468

1 Q. With the opportunity -- limited opportunity
2 you have had to review those requests, do they
3 effect the conclusions or opinions that are set
4 forth in your testimony?

5 A. No, they don't.

6 I have reviewed the documents which I
7 believe have been admitted as City Cross Exhibits 2,
8 3, 4 and 5, plus the board of directors minutes and
9 the attachments to those minutes that the company
10 has provided in response to CUB Data Requests 57 and
11 62, I believe, and the company's analyses,
12 statements, conclusions in those documents confirm
13 my conclusions regarding the likelihood of
14 Commonwealth Edison seeking to extend the operating
15 licenses of the Dresden and Quad City units.

469

16 Q. Now, with the change at Page 4 and the
17 change -- the changes at Page 27 and 28 in your
18 direct testimony, if I were to ask you the questions
19 that are set forth in CUB DT Exhibit No. 1.2 today,
20 would your answers be the same?

21 A. Yes, they would,

22

1 MR. JOLLY: I move for the admission of CUB DT
2 Exhibit 1.2 and I tender the witness for
3 cross-examination.
4 JUDGE HILLIARD: Objections?
5 MR. MC KENNA: No objection.
6 Just for the record, I'm William McKenna
7 and I'll be cross-examining Mr. Schlissel on behalf
8 of Commonwealth Edison Company.
9 JUDGE CASEY: This is CUB and City of Chicago's
10 Exhibit 1.2.
11 MR. JOLLY: Let's make it 1. It's what's
12 written --
13 JUDGE CASEY: It's 1.2.
14 MR. JOLLY: 1.2 it is.
15 JUDGE CASEY: That exhibit will be admitted.
16 (Whereupon, CUB DT
17 Exhibit No. 1.2 was admitted
18 into evidence.)
19 JUDGE CASEY: Cross-examination, Mr. McKenna, you
20 want to go first?
21 MR. MC KENNA: Thank you.
22

1 CROSS -EXAMINATION

2 BY

3 MR. MC KENNA:

470 4 Q. Good afternoon, Mr. Schlissel, how are you,
5 sir?

6 A. Fine, sir.

471 7 Q. We know each other from some
8 cross-examinations in the past, do we not?

9 A. The way you describe it is accurate but it
10 sounds a little shady, but yes, we do know each
11 other from previous proceedings.

472 12 Q. Mr. Schlissel, I'm going to ask you a very
13 few questions about your background. I know you
14 know the drill. We have got some '99 testimony in
15 this record where I think there was some full
16 development, so let me just start with:

17 You're an attorney, right?

18 A. That's one of my degrees, yes.

473 19 Q. And you are not a licensed professional
20 engineer, correct?

21 A. That's correct.

22

474 1 Q. And you have a BS degree in aeronautical
 2 engineering, yes?

 3 A. Yes, as well as you know a master's degree
 4 in engineering.

475 5 Q. Correct.

 6 You do not have any degree in nuclear
 7 engineering, however, correct?

 8 A. That's correct. As you're aware and the
 9 record I'm sure reflects, I have taken nuclear
476 10 engineering classes but that was not in a degree
 11 course.

 12 Q. You took five classes to be exact, one of
 13 which was project management, right?

 14 A. That's correct.

477 15 Q. Now, professionally, you have never operated
 16 a nuclear power plant, right?

 17 A. Correct.

478 18 Q. Not licensed as an operator, right?

 19 A. That's correct.

479 20 Q. You have no hands-on experience designing a
 21 nuclear power plant, right?

 22 A. Correct.

480 1 Q. And other than performing consultant work
 2 for a utility, you have never worked for a utility
 3 at a nuclear power plant?
 4 A. That's correct.

481 5 Q. You have not had the responsibility for
 6 preparing from the ground up a decommissioning cost
 7 estimate, right?
 8 A. That's correct.

482 9 Q. Or a nonradiological decommissioning
 10 estimate, right?
 11 A. Correct.

483 12 Q. Or a radiological site characterization,
 13 right?
 14 A. Correct.

484 15 Q. Nor have you ever been involved in
 16 decommissioning a plant?
 17 A. That's correct.

485 18 Q. Now, you're not a board certified cost
 19 engineer, right?
 20 A. Correct.

486 21 Q. You're not a member of the Association for
 22 the Advancement of Cost Engineering or the American

1 Society of Cost Engineers, right?

2 A. That's correct.

487 3 Q. And you don't have any articles or
4 publications that were peer reviewed and that deal
5 with the subject of decommissioning, right?

6 A. Peer reviewed, correct.

7 I have written an article which I think
8 addressed decommissioning but it was not peer
9 reviewed as you describe it.

488 10 Q. Right. Okay.

11 Now -- and you don't have any
12 publications, any peer reviewed or otherwise
13 publications on the subject of renewing NRC
14 operating licenses?

15 A. That's correct.

489 16 Q. Okay. Now, your testimony here in this
17 case, in part, looks and gives some opinions to the
18 Commission and the Examiners about the likelihood
19 that some or more than some license extensions may
20 be granted by the NRC to ComEd plants, right?

21 A. Yes. I mean, not more than one license
22 extension per plant, but license extensions for more

1 than one plant, yes.

490 2 Q. But generally you have expressed some
3 opinions about whether you think it's likely that in
4 the future ComEd might apply for renewals and might
5 get renewals, right?

6 A. Yes, sir.

491 7 Q. Okay. And just so it's clear though, you,
8 yourself, have not been involved in preparing any
9 application for any plant owned by any party for
10 extension of its nuclear license?

11 A. That's correct. My involvement has been
12 limited to reviewing the reasonableness of a
13 utility's preparation, submission of such an
14 application.

492 15 Q. Of course it's correct that you have never
16 offered testimony before the NRC on the subject of a
17 relicensing or renewal of the license of any power
18 plant, right?

19 A. That's correct.

20 I don't believe the NRC had any hearings
21 on that issue.

493 22 Q. Not yet, right?

1 A. That's correct.

2 The NRC basically has disallowed claims
3 by intervenors in the several proceedings of which
4 I'm aware.

494 5 Q. We'll talk about that when we come to it.

6 A. Okay.

495 7 Q. But my point is simply you haven't had that
8 opportunity to testify before the NRC and be
9 recognized by them as an expert in the renewal of
10 licenses, right?

11 A. That's correct.

12 There's been no hearings. I'm not sure
13 I'm opposed to it, so I mean with those caveats, the
14 answer is yes.

496 15 Q. And I'm right also, aren't I, that before
16 this proceeding today you have not given expert
17 testimony in any regulatory proceeding with respect
18 to the likelihood of NRC license extensions before?

19 A. That -- I think the way you limited it is
20 correct.

21 I did testify in Arkansas regarding -- or
22 presented testimony -- the case was ultimately

1 settled -- regarding the reasonableness of Entergy's
2 plans to replace the steam generators at Arkansas
3 Nuclear One, Unit 2.

4 And my analysis involved looking at
5 whether the NRC license -- excuse me, whether the
6 company would seek to extend the NRC license and
7 whether it was likely it would get such an
8 extension.

9 But I didn't testify because the hearings
10 were settled.

497

11 Q. Right.

12 And so it's true that you have not
13 submitted testimony that's been relied upon by any
14 Commission anywhere as of this date with respect to
15 whether or not a license for a nuclear plant would
16 be extended?

17 A. Well, I have to look at my Arkansas
18 testimony to see whether I specifically discussed
19 license renewal in it.

20 My testimony said that the company's
21 plans to renew -- to replace the steam generators
22 was a reasonable plan, so I supported what the

1 company was seeking to do.

2 My client was the staff of the Arkansas
3 Commission. As a part of my review I looked at the
4 economics of operating the plant for another 20
5 years beyond the expiration of its current NRC
6 license.

7 I submitted testimony that the Commission
8 relied upon in adopting the settlement of the case.

9 So, I mean, I'm trying to explain it
10 so --

498 11 Q. I should have been more precise in my
12 question.

13 A. Okay.

499 14 Q. There's no order of any Commission that
15 you're aware of that relies upon your testimony in
16 concluding that it would be reasonable to presume a
17 particular plant will get a license extension?

18 A. I think that's correct as you limit it, but,
19 again, we'd have to look at the specific language of
20 the, I think it's December 1998 order of the
21 Arkansas Public Service Commission to see exactly
22 what they say with regard to the steam generator

1 replacement at Arkansas Nuclear One.

500 2 Q. Let's move on away from background and
3 before we get into your testimony here today, I want
4 to talk for a couple of minutes about your testimony
5 before this Commission on December the 7th, 1999, in
6 Docket No. 99-0115.

7 You remember that, sir?

8 A. Yes, sir.

501 9 Q. And that was the so-called 1999 Rider 31
10 proceeding with respect to ComEd, right?

11 A. I believe that's correct.

502 12 Q. Related to the decommissioning trusts and
13 costs and annual collection for the year 1999,
14 correct?

15 A. I believe it was for the year 1999. I'm not
16 sure if it was for 2000 being decided in '99, but
17 it's generally correct.

503 18 Q. And you remember you testified in that case,
19 right?

20 A. Yes, sir.

504 21 Q. And you provided some testimony in which
22 you, in part, disagreed with some of the cost

1 estimates that were sponsored by Mr. LaGuardia
2 there, right?

3 A. Yes. I disagreed with one or two aspects --
4 well, I didn't disagree with his numbers.

5 I disagreed with the recoverability of
6 those cost limits from ratepayers.

505 7 Q. Right.

8 And one of the things you disagreed with
9 was \$58 million worth of costs relating to some
10 secondary side contamination at Zion Station, right?

11 A. Yes, sir.

506 12 Q. Another thing you disagreed with him on was
13 \$15 million worth of contaminated asbestos removal
14 cost, right?

15 A. That's correct.

507 16 Q. But I looked at your testimony before coming
17 over here and one thing I don't see in there, and I
18 wanted you to confirm that for me, is you did not
19 take the position on December 7, 1999, when you
20 testified, that ComEd's decommissioning trusts were,
21 in fact, overfunded, did you?

22 A. That's correct.

508 1 Q. You didn't say in that case, like you do in
 2 this, given a license extension, assuming a license
 3 extension, there's more time to build up earnings
 4 and likely, in your opinion, create an overfunding,
 5 right?

 6 A. That's correct.

509 7 Q. Now, it's true, though, that while you
 8 didn't say it there, you do say it now, eight months
 9 later, right?

 10 A. That's correct.

510 11 Q. Okay. And the regulations, sir, that permit
 12 the owner of a station to seek a renewal, they're
 13 not that old but they're -- they have been around
 14 for a number of years, haven't they?

 15 A. That's correct. But the reality of the NRC
 16 granting licenses to do so is a new event.

511 17 Q. But my point is, there have been regulations
 18 in place, NRC regulations, detailed regulations
 19 regarding what you file and where you file it and
 20 how you go about getting a license extension since
 21 1991, right?

 22

1 A. Yes. They were modified in the mid '90s but
2 there has been something in place since '91.

512 3 Q. And, similarly, there have been NRC detailed
4 regulations in place regarding the concept of
5 delayed decommissioning since the early 1990s,
6 right?

7 A. That's correct.

513 8 Q. Now, I want to change focus again and move
9 away from the 1999 case and talk about this one.

10 And the first thing I want to ask
11 you about, Mr. Schlissel, is you have read
12 Mr. Berdelle's various pieces of testimony, I take
13 it?

14 A. Yes, sir.

514 15 Q. Including his rebuttal piece, the last piece
16 of testimony he filed?

17 A. I read it quickly, yes, sir.

515 18 Q. And you understand that he has made some
19 concessions in that prefiled testimony on behalf of
20 the company?

21 A. I'm aware of at least one.

516 22 Q. Okay. And in particular, a concession that

1 subject to the terms that are specifically stated in
2 his testimony, if there's an excess of funds in all
3 the trusts left over when the last unit is
4 decommissioned, that excess will be refunded, right?

5 A. That's what it says, but I mean --

517 6 Q. That's what it says, right?

7 A. My concern is over the details.

518 8 Q. Well, I'm not really getting into the
9 details at this point.

10 A. Okay.

519 11 Q. What I'm getting into is some testimony that
12 you gave here at Page 4 of your prefiled testimony
13 where you refer to what you called a substantial
14 windfall profit which the company could gain if the
15 ICC ignores the potential for nuclear plant life
16 extension.

17 You see that, sir?

18 A. Yes, sir, starting Line 6.

520 19 Q. You agree with me that, you know, whatever
20 you have got to say about the details of Mr.
21 Berdelle's proposal, there won't be a windfall,
22 right, to the company?

1 A. I'm not sure of that. I haven't had full
2 enough time to analyze Mr. Berdelle's proposal to be
3 able to reach that conclusion.

521 4 Q. Let's just talk about it for a second.

5 A. Okay.

522 6 Q. Assume with me, if you will, that in
7 connection with Mr. Berdelle's concession, he has
8 committed the company to return any funds on hand in
9 any of the trusts once the last unit is
10 decommissioned. And that the company, if you would
11 assume further has irrevocably committed that it
12 will not retain any overfunding, would you agree
13 with me, then, sir, that there can be no windfall
14 profit of the type you refer to in your testimony?

15 A. And my answer would be the same. I've not
16 had an opportunity to look at it in detail to see
17 whether, in fact, there could still be a windfall
18 profit.

523 19 Q. So your testimony is you just don't know
20 sitting here today?

21 A. My testimony is I just answered it.

524 22 Q. There might be some loophole in his proposal

1 that you haven't identified yet; is that a fair
2 characterization?

3 A. Correct. It might be, yes.

525 4 Q. But you can't point it out for the Examiners
5 or the Commission sitting here today, right?

6 A. No, I have seen about seven lines of
7 description of it so I don't know what the details
8 of the proposal are, what the details of the
9 commitment are.

526 10 Q. Okay. Let me ask you one other point now
11 that we're on Page 4 of your examination.

12 You do agree with me, don't you,
13 Mr. Schlissel, that safety and the public health and
14 welfare is really the paramount issue when it comes
15 to decommissioning nuclear power plants?

16 A. The paramount -- it should be the paramount
17 issue, yes, sir.

527 18 Q. Well, in -- you talk at Page 4 of your
19 testimony right above the spot that we just
20 discussed about dismantling and decommissioning
21 plants in a manner that protects the public health
22 and safety and the environment.

1 You believe in that, right?

2 A. Yes, sir.

528 3 Q. And wouldn't you agree with me, sir, that

4 inadequate funding for decommissioning would risk

5 those very things?

6 A. It could, yes, sir.

529 7 Q. Okay. Now I want to turn to the subject of

8 license extensions which you spend some time on in

9 your testimony, sir.

10 If you want to look at Page 12, 13, 14,

11 that's the area from which my questions are going to

12 spring for the most part.

13 Just so we're on the same page, as I

14 understand your testimony, you think, to look at

15 Page 12 at the bottom, that it's reasonable to

16 expect that ComEd will decide to submit an

17 application to the NRC to extend the operating lives

18 of Dresden and Quad, right?

19 A. Yes, sir.

530 20 Q. And you go on on Page 13 and what I hear you

21 say there or see you say there is that it's, in your

22 opinion, reasonable to expect that the NRC would

1 approve such request, right?

2 A. Yes, sir.

531 3 Q. Okay. Now, on Page 13 where you give that
4 opinion about the NRC, you have no inside
5 information that you could share with the
6 Commission, right?

7 A. That's correct. I'm basing it on what the
8 NRC has done recently with other plants and also
9 what the NRC is saying about license extension.

532 10 Q. Right. And you don't have any special
11 position that would allow you to read the tea leaves
12 better than anybody else in the industry, right?

13 A. I haven't bugged the NRC commissioners'
14 chambers offices.

533 15 Q. I wasn't trying to suggest anything improper
16 or illegal. I just wanted to make sure there's
17 nothing special about the opinion you got here.

18 But I want to focus on something,
19 Mr. Schlissel, where you say you think it's
20 reasonable to expect that the NRC would approve such
21 a request if the company continues to properly
22 maintain its nuclear units, right?

1 A. Yes, sir.

534 2 Q. And you believe that, right?

3 A. Yes, sir.

535 4 Q. And that that's going to be a prerequisite,

5 right?

6 A. I don't know that prerequisite -- I'm sure

7 the NRC would not be pleased if an applicant for

8 license extension has not been properly maintaining

9 their plants.

536 10 Q. And were that to happen in your opinion,

11 maybe your testimony about the reasonable likelihood

12 of the license extension for a given plant might

13 change, right?

14 A. It could.

537 15 Q. Okay.

16 A. But then again it might not if the utility

17 committed to clean up its act so to speak.

538 18 Q. Okay. That's an uncertainty?

19 A. Yes.

539 20 Q. Might, might not, right?

21 A. Yes, sir.

22

540 1 Q. But just so I understand, it's your position
 2 today sitting here on this day in August 2000 that
 3 ComEd meets the requirement of continued appropriate
 4 maintenance of its nuclear power plants, right?
 5 A. That I guess --

541 6 Q. You have trouble with that. Let me try it
 7 again.

 8 A. No. No. If I could answer, I may be able
 9 to help.

 10 I believe they're currently maintaining
 11 the units properly.

542 12 Q. Okay. That's my point.

 13 A. It's my belief from what I have read that
 14 the company intends to continue maintaining its
 15 plants.

 16 So that in four or five years or
 17 whenever, two years or three years or four years
 18 when the NRC would rule on the application, there
 19 would be a track record of properly maintaining its
 20 plants.

 21
 22

543 1 Q. Great. You're getting ahead of me right
 2 where I want to go, though. And I want to tell you,
 3 Mr. Schlissel, we appreciate, on behalf of ComEd,
 4 your confidence in the company.
 5 But I have got to ask you three, four,
 6 five years might not be enough, don't you agree with
 7 me?
 8 There's some plants out there whose
 9 licenses don't expire for quite some time, correct?
 10 A. That's correct.
544 11 Q. And isn't it entirely probable that a lot of
 12 those plants, if you're right and ComEd ultimately
 13 seeks to extend their licenses, that time won't come
 14 for many, many years?
 15 A. That's correct, but I'm still two questions
 16 back thinking about whether three, four or five
 17 years is enough for Dresden and Quad Cities.
545 18 Q. Well, don't worry about that. I'm not
 19 concerned about that one.
 20 A. So you don't want me to answer that
 21 question?
 22

546

1 Q. I'm concerned about this one:

2 It's true, your assumption that there's
3 going to be continued proper maintenance of these
4 plants isn't going to be limited to whatever the
5 time period is to get a Dresden or a Quad
6 application on file and approved, could go much,
7 much farther, right?

8 A. Well, since we're discussing a final event
9 of the NRC granting a license, generally five -- I
10 mean, I think the company's internal documents I
11 have seen and have cited when I introduced my
12 testimony discuss that they expect five years from
13 the beginning of the application and getting --

547

14 Q. Let me make it simple.

15 You agree, Mr. Schlissel, that continuing
16 proper maintenance of all of ComEd's power plants is
17 essential for a sustained period of time in order
18 for your prediction you make in your testimony that
19 they can file and that they will likely get license
20 renewals for every single plant, for that to come
21 true?

22

1 A. Yes, I think they have to properly maintain
2 them, as I say.

548 3 Q. Yet, sir, isn't it a fact that just a few
4 years ago, you testified in front of this
5 Commission, and I was there with you, that ComEd had
6 done a horrible job of maintaining and operating its
7 plants?

8 A. That's correct.

549 9 Q. Right?

10 A. Through -- I believe you're discussing the
11 1994 and 1996 fuel cases.

550 12 Q. But it's even more recent than that, isn't
13 it, sir?

14 You testified in the 1994 fuel clause
15 case in September of 1996, right?

16 A. Correct.

551 17 Q. And at that time, I examined you; you had
18 prefiled testimony, right?

19 A. That's correct.

552 20 Q. And I got it, I can take it out if you need
21 me to, let's see if we can just go through it
22 without it.

1 Isn't it a fact, sir, that at that time
2 you testified that refueling and maintenance outages
3 at Dresden and Quad were substantially longer than
4 typical for other plants?

5 A. That's correct, but, I mean, I don't mean to
6 be rude with you, you are discussing testimony
7 in '96 that discusses 1994.

8 I mean you could take the same quotes out
9 of my '96 case testimony which I testified to, I
10 think it was '97.

553 11 Q. We're going to get to that.

12 A. But it's -- I just wanted --

554 13 Q. We're here today, Mr. Schlissel --

14 MS. NORINGTON: Can the witness answer the
15 question before counsel interrupts?

16 THE WITNESS: I just want to make it clear that
17 on its -- I'll answer your questions willingly at
18 whatever length you want, but it is still -- when I
19 gave each of those pieces of testimony, each of them
20 was historical in nature.

21 MR. JOLLY: I think it needs to be made clear
22 that these are fuel adjustment proceedings which

1 examined a particular year.

2 And in one case we're talking about 1994
3 and while he may have submitted testimony or been
4 cross-examined in 1996, the testimony concerned
5 events that occurred in 1994.

6 JUDGE CASEY: I think the Examiners are aware of
7 the lag of the testimony.

8 BY MR. MC KENNA:

555 9 Q. But you submitted testimony in September of
10 '96 relating to the calendar year '94 in which you
11 said Dresden, Quad and Zion forced outages were
12 extremely long, right?

13 A. That's correct.

556 14 Q. In which you testified at great length that
15 outages at Dresden, Quad and Zion were caused or
16 extended by ComEd mismanagement, right?

17 A. That's correct.

557 18 Q. And you went so far as to claim that ComEd
19 had been aware of serious management and
20 programmatic weaknesses and long-standing equipment
21 problems at Zion, Dresden and Quad since the early
22 1990s, right?

1 A. That's correct. I actually thought it went
2 back to the '80s, but I'll accept the early '90s.

558 3 Q. And you also testified that company
4 improvement programs at Quad and Dresden prior to
5 1994 had not been successful , right?

6 A. Correct.

559 7 Q. You quoted the NRC and you quoted INPO in
8 your testimony in 1996 about 1994 and stated that
9 they, the NRC and INPO, were skeptical about the
10 company, ComEd's, ability to implement improvement
11 programs, right?

12 A. Yes.

560 13 Q. You had 158 total pages of testimony in that
14 case. Remember that?

15 A. I don't remember the number of pages, but it
16 was long.

561 17 Q. It was all about mismanagement, right?

18 A. Except for the section where I did say they
19 had done some things right at the other plants, but
20 generally yes.

562 21 Q. It's all about mismanagement relating to
22 Quad, Dresden and Zion, right?

1 A. Because at the other plants I had found that
2 there was no mismanagement, yes, sir.

563 3 Q. You asked, initially, at least, for some \$90
4 million in fuel clause disallowances based upon what
5 you found were instances of ComEd mismanagement,
6 right?

7 A. I'll take that subject to check. I don't
8 remember exact numbers.

564 9 Q. Now let's move forward to the '96 fuel
10 clause case relating to performance of ComEd
11 during '96, and your testimony in that case was
12 in -- I think it was September of 1998.

13 Does that sound right to you, sir?

14 A. I think so.

565 15 Q. Okay. And that time you again testified and
16 said that the overall performance of all six of
17 ComEd's stations was substantially below other U.S.
18 plants, right?

19 A. Yes, but, again, I found that at Byron and
20 Braidwood there was no mismanagement.

21

22

566 1 Q. You found no disallowances at Byron or
 2 Braidwood, but you put all the plants together and
 3 said all six stations fall substantially below other
 4 U.S. plants, right?

 5 A. As --

567 6 Q. You need me to take it out for you?

 7 A. Well, the answer strictly is yes, but it was
 8 just you're citing a little paragraph when I looked
 9 at capacity factors compared to the -- I believe it
 10 was capacity factors -- compared to other utilities
 11 that own multiple stations.

568 12 Q. You called Dresden, LaSalle and Quad 5 of
 13 the 13 worst performing units in the country in
 14 September of 1998 based on their 1996 performance,
 15 right?

 16 A. But not Byron and Braidwood. That's what I
 17 said before.

569 18 Q. I'm right, though? That's what you said
 19 about LaSalle, Dresden, Quad, 5 of the 13 worst
 20 units?

 21 A. Yes.

 22

570 1 Q. You found mismanagement in connection with
 2 outages at Dresden, LaSalle, Quad and Zion?
 3 A. Yes.

571 4 Q. And you talked about glacially slow change
 5 at the plants at Dresden, Quad, LaSalle, Zion?
 6 A. Yes. I was citing an INPO report.

572 7 Q. Exactly.
 8 And you talked about very significant, in
 9 your opinion, management, programmatic and human
 10 performance deficiencies at the LaSalle Station,
 11 right?

 12 A. Yes, sir.

573 13 Q. Now, we're two years past that point and now
 14 you're telling us maintenance is good and in your
 15 opinion, it's going to stay good for a long enough
 16 term for every one of these stations to be
 17 relicensed, right?

 18 A. No. We're now four years beyond that point,
 19 there's a new management team that's been in place
 20 for a while at Commonwealth Edison that from what I
 21 have read in looking at NRC documents, the NRC
 22 believes has turned things around finally so that

1 the problems that used to exist have been addressed;
2 that the improvement project programs that used to
3 fail now under the new management team seem to be
4 succeeding.

5 That's the basis for my conclusion that
6 the company appears to be maintaining its plants
7 well and I hope will continue to do so in the
8 future.

574 9 Q. Okay. And, you know, as I said, we
10 appreciate your vote of confidence, but the point
11 I'm trying to make with you is a lot can change in
12 four years, right?

13 A. Well, the presidency changes. Sure, things
14 can change in four years, yes.

575 15 Q. And they have for this group of plants in
16 your opinion, right?

17

18 A. Yeah, for some of them. As I have said a
19 number of times so far, Byron and Braidwood, I
20 think, have been excellent performers all along.

576 21 Q. But a lot can change in another four years,
22 too, right?

1 A. Sure. Things could go in the downhill, but
2 I don't it's reasonable to expect that that will
3 happen.

577 4 Q. Now let's talk about some of the specifics
5 here.

6 You've expressed the view to the
7 Commission that it's reasonable to expect that the
8 NRC will approve Dresden and Quad license
9 extensions, right?

10 A. Yes, sir.

578 11 Q. These are ComEd's oldest stations, right?

12 A. Yes, sir.

579 13 Q. They're the ones that are going to be the
14 first ones to have their licenses expire, right?

15 A. Yes, sir.

580 16 Q. They also are BWR-III General Electric type
17 reactors, right, sir?

18 A. Yes, sir.

581 19 Q. Dresden's two units entered service --
20 Dresden II entered service in June of 1970, and
21 Dresden III entered service in November of 1971,
22 right?

1 A. I believe those are accurate.

582 2 Q. Okay. Quad I entered service in February
3 of '73 and Quad II in March of '73, right?

4 A. Again, I'll accept subject to check. I
5 don't remember the exact dates but it's close.

583 6 Q. Now, you testified that in your opinion
7 ComEd will submit license renewal applications for
8 those two plants and they will get those license
9 renewal applications, right?

10 A. Yes, sir.

584 11 Q. But no applications have been filed as yet
12 for those or any other ComEd units, right?

13 A. That's correct.

585 14 Q. And only two renewal applications from
15 anybody ever have been approved by the NRC, right?
16
17

18 A. Correct. The two that were filed -- the
19 only two that have been filed were approved and
20 those were for two plants owned by Baltimore Gas &
21 Electric and three plants owned by Duke Power
22 Company.

586 1 Q. And neither of those units -- neither of
 2 those plants and none of those units at those plants
 3 were of the same design or vintage as Dresden or
 4 Quad?

 5 A. That's correct. They're all pressurized
 6 water reactors, PWRs, not BWRs.

587 7 Q. And they all went into service on later
 8 dates than the service dates that you agreed with me
 9 on for Dresden and Quad, right?

 10 A. Yes. I believe the Calvert Cliffs were --
 11 '75.

588 12 Q. '75 and '77, right?

 13 A. And Oconee -- I'm sorry, I know some -- one
 14 of them was --

589 15 Q. Late in '74.

 16 A. Okay.

 17

590 18 Q. Now, Mr. Schlissel, in addition to the two
 19 plants for which -- I'm sorry, yeah, the two plants,
 20 various units for which the extensions were granted
 21 being PWR-type plants, they were also manufactured
 22 by a different manufacturer, right?

1 A. Yes, sir.

591 2 Q. The Calvert Cliffs was Combustion
3 Engineering, right?

4 A. Correct.

592 5 Q. And Oconee was Babcox & Wilcox, right?

6 A. Yes, sir.

593 7 Q. And ComEd's are General Electric, right?

8 A. Dresden and Quad Cities and LaSalle are
9 General Electric, yes.

594 10 Q. Right.

11 So a hypothetical application to renew
12 licenses on behalf of Dresden and Quad will be
13 breaking new ground in a sense, right?

14 A. No.

595 15 Q. Well, you agree with me, right, different
16 type, different vintage and different manufacturer,
17 correct?

18 A. Correct. But there are plants in the
19 pipeline ahead of Commonwealth Edison, even if the
20 company were to decide this afternoon and announce
21 it, and even -- that they were intending to put
22 together and file an application, there are BWR

1 plants in the pipeline ahead of Com -- where Dresden
2 an Quad Cities would be.

596 3 Q. For whom -- I'm sorry?

4 A. Currently the Hatch plants that are owned
5 by, I think it's Southern Nuclear Operating Company
6 are under review by the NRC and application has
7 already been filed.

8 Philadelphia Electric Company, PECO, has
9 said that it intends to file an application, I think
10 it's the end of this year, beginning of next year,
11 for license renewal for the Peach Bottom II and III
12 plants, all of the -- Hatch I and II and Dresden II
13 and III are similar in design.

597 14 Q. Let's talk about that for a second.

15 A. Okay.

16

17

598 18 Q. Let's talk about Hatch I and II.

19 They have got an application on file
20 undergoing review right now, right?

21 A. Yes, sir.

599 22 Q. No approval, right?

1 A. That's correct.

600 2 Q. No indication there's going to be an
3 approval yet, right?
4 The NRC doesn't tell you, yeah, I think
5 you're going to get it; they just process it and
6 either you get it or you don't, right?

7 A. Fine. My review of industry literature
8 doesn't -- hasn't discussed any problems in the
9 review process, though.

601 10 Q. They're not the same type units as Dresden
11 and Quad, right?

12 A. They're similar.

602 13 Q. Well, they're BWR-IV, aren't they, sir?

14 A. Correct. That's a newer model than BWR-III
15 but a lot of the essentials of the plant are the
16 same.
17

603 18 Q. And they're also more recent vintages than
19 Dresden and Quad?

20 A. Slightly. I think they were what '75
21 and '77, something like that. '74 and '76.

604 22 Q. I think --

1 A. It's somewhere --

605 2 Q. -- '75 and '77?

3 A. Somewhere in that. There's a hundred and

4 eight plants. It's hard to remember them all.

606 5 Q. The point is, Mr. Schlissel, that nothing is

6 guaranteed here, right?

7 A. That's for sure, yes.

607 8 Q. You don't know for sure -- you can give your

9 opinions but you don't know for sure that ComEd is

10 going to apply for renewals on behalf of Dresden and

11 Quad, right?

12 A. That's correct. No one from ComEd has said

13 they are; but based, as I say, on my review of the

14 evidence discussed in my testimony and the documents

15 we have recently received where the board evidently

16 is -- it's been recommended to the board that they

17 approve it, I believe the company ultimately will

18 apply, yes.

608 19 Q. But you can't guarantee that, right?

20 A. That's -- I mean --

609 21 Q. And you can't guarantee what the NRC is

22 going to do, right?

1 A. I can't guarantee. All I can say is what I
2 reasonably believe they will do.

610 3 Q. You can't guarantee the ComEd will even
4 operate all of its units to the end of their
5 existing 40-year licensed life, right?

6 A. I can't guarantee it, no. I can't guarantee
7 the future.

611 8 Q. And you can't guarantee that if ComEd were
9 to apply for and get a license renewal that the
10 economic factors would permit it to economically
11 operate those units past the 40-year initial license
12 term?

13 A. That's correct, what any forecaster used to
14 say, we reasonably believe will happen, and I have
15 said that.

612 16 Q. And you can't tell us whether there will be
17 an industrywide development beyond ComEd or Genco's
18 control, like the discovery of some particular form
19 of age-related degradation that can't be overcome
20 and that will be an impediment to licensing?

21 A. I don't think it will happen.

613 22 Q. You can't tell me -- you can't tell us for

1 sure, right?

2 A. Right. Nobody can tell anything for sure.

614 3 Q. Nobody can tell for --

4 A. Death and taxes I think people say are the

5 only two sure things.

6 Well, this falls outside of that range.

615 7 Q. You can't tell us whether nuclear plant

8 opponents will succeed in blocking renewals?

9 A. I think there you're getting pretty close to

10 guarantees that they won't.

11 The NRC doesn't even allow them in the

12 hearings anymore.

616 13 Q. We'll talk about that in a few seconds.

14 A. And, in fact, the NRC has done away with

15 hearings to a large extent so I think it's highly

16 unlikely that opponents will block license

17 extension.

617 18 Q. But you can't guarantee what's going to

19 happen with respect to intervenors, right?

20 A. No. I'd give it a below.00001 percent.

618 21 Q. Well --

22 A. But, again, it can't guarantee the future.

619 1 Q. Mr. Schlissel, you can't even guarantee
 2 whether the intervenors who are here opposing
 3 ComEd's proposal in this proceeding will or will not
 4 oppose a license renewal for a given nuclear power
 5 plant of ComEd's before the NRC, right?
 6 A. Beyond city and CUB and the public
 7 officials, I know nothing about the intervenors, so
 8 I can't say yes or no what they intend to do or
 9 don't intend to do.

620 10 Q. Are you guaranteeing ComEd that the city and
 11 CUB won't --
 12 A. No.

621 13 Q. -- jump in and object to a license renewal?
 14 A. You'll to ask them.

622 15 Q. You can't guarantee it, right?
 16 A. I'm not the policy witness on that issue.

 17 MR. MC KENNA: Now, let's mark a cross exhibit
 18 here.

 19 JUDGE CASEY: While we're doing that, counsel,
 20 when you ask a question, give the witness an
 21 opportunity to answer.

 22 MR. MC KENNA: Sure.

1 JUDGE CASEY: Mr. Schlissel, when he asks you a
2 question, make sure he finishes a question before
3 you start answering.

4 THE WITNESS: Sorry, sir.

5 MR. MC KENNA: I'll work on it. I'm trying to
6 move things along.

7 JUDGE CASEY: You're on a roll.

8 (Whereupon, ComEd Cross
9 Exhibit No. 10 was marked
10 for identification.)

11 BY. MR. MC KENNA:

623 12 Q. Mr. Schlissel, do you have ComEd Cross 10 in
13 front of you?

14 A. Yes, sir.

624 15 Q. It's some excerpts from the Code of Federal
16 Regulations as they relate to the delicensing of
17 power plants.

18 Could you turn to the back first, to
19 Section 54.19 of 10 CFR.

20 A. Yes, sir.

625 21 Q. You got that there?

22 A. Yes.

626 1 Q. Okay. So license renewal starts with the
 2 licensee submitting an application to the NRC,
 3 right?

 4 A. The regulatory process begins there, but as
 5 you're aware, the process really begins a lot
 6 earlier with the utility doing analyses to support
 7 the application it's going to submit to the NRC.

 8 So the process has probably gone on for
 9 several years before the utility gets the
 10 application together.

627 11 Q. My focus is really on the regulatory part of
 12 the process.

 13 A. Okay.

628 14 Q. It starts, under the regulations, with an
 15 application, right?

 16 A. Yes, sir.

629 17 Q. Like it says in 54.19, right?

 18 A. Yes, sir.

630 19 Q. And the license --

 20 JUDGE HILLIARD: What page are you on?

 21 MR. MC KENNA: I'm sorry?

 22 JUDGE HILLIARD: What page are you on?

1 MR. MC KENNA: I'm on Page 98 of 10 CFR Part 54.
2 It should be toward the back, the environmental.
3 MR. JOLLY: Three pages from the back.
4 MR. MC KENNA: I'm sorry, do you have it?
5 BY. MR. MC KENNA:
631 6 Q. 54.21 tells you what has to be in the
7 application, right, Mr. Schlissel?
8 A. Yes, sir.
632 9 Q. And it says you have got to have an
10 integrated plant assessment, right?
11 A. Yes, sir.
633 12 Q. And you have got to identify and list those
13 structures and components subject to an aging
14 management review, right?
15 A. Yes, sir.
634 16 Q. And then it lists all those structures that
17 at a minimum you're required to do an aging review
18 on, like reactor vessel, reactor coolant system,
19 pressure boundary, steam generators, et cetera,
20 right?
21 A. Yes. An application is a multi-volume
22 submission to the NRC.

1 I'm trying to think. As I said, I
2 reviewed the one for Baltimore Gas -- sorry, I
3 reviewed the application that Baltimore Gas &
4 Electric has filed -- had filed at the NRC, and
5 it's, I mean, several boxes of documents just for
6 one copy of the application.

635 Q. Without getting into the level of detail of
7 several boxes of documents, it's fair to say based
8 on these regulations that the integrated plant
9 assessment has to identify all structures, systems
10 and components that have aging management concerns
11 affiliated with them, right?

13 A. I think generally you're correct.
14 Specifically you're not.

15 It doesn't have to find all systems,
16 structures and components -- structures, systems and
17 components. It focuses on safety-related components
18 and nonsafety-related whose failure can affect
19 safety-related.

20 So there may be some of the plant that
21 could be affected by aging that really don't fall
22 within the gambit here but generally you're

1 corrects.

636 2 Q. But at least the systems that are listed
3 there in 54.21-A-i?

4 A. Yes, sir.

637 5 Q. Have to be covered, right?

6 A. Yes, sir.

638 7 Q. And it's true, isn't it, that if structures,
8 systems and components identified in that regulation
9 as necessarily being the subject of this assessment
10 have not been properly maintained over their
11 lifetime, that may be an issue with respect to
12 license renewal, right?

13 A. Yes, definitely.

639 14 Q. And that's the whole fundamental -- that's
15 probably the most fundamental question for the NRC
16 on license renewal, right?

17 A. No. The fundamental question is whether the
18 utility will be able to properly manage aging during
19 the extended life period.

640 20 Q. Let's take a look at Section 54.29.

21 In fact, before we get there, let's pause
22 for a minute at 54.27.

1 A. Okay.

641 2 Q. Says there you get a hearing if you ask for
3 it, right?

4 A. Yes, but the NRC process is you have to
5 raise contentions.

6 And what the NRC has done with
7 intervenors is disallow the contentions.

8 As I'm sure you're aware, there's a -- I
9 think it's in the appeals court in DC now over the
10 NRC's denial of hearings on the -- I think it's the
11 Oconee case.

642 12 Q. Let's talk about that. It's Calvert Cliffs
13 actually.

14 In that case, which you're familiar with,
15 some intervenors failed to file contentions
16 regarding the licensing proceeding pursuant to a
17 deadline set by the NRC, right?

18 A. I believe that's correct.

19 My knowledge just goes to the extent that
20 there have not been hearings. That the intervenors
21 have gone to court.

22

643

1 Q. I'm getting at whether there likely will be
2 hearings in the future which you made some comments
3 on earlier in this cross-examination.

4 And my points, Mr. Schlissel, is the
5 decision in the National Whistle Blowers case was
6 you didn't file your contentions on time,
7 intervenors, and we're not going to let you have a
8 hearing because you didn't follow the rules?

9 A. I think that's correct, yes.

644

10 Q. Okay. So the next intervenor group who
11 comes along, if they hire you far enough in advance
12 to scrutinize the applications which will have been
13 filed months in advance, will be able to file their
14 contentions, right?

15 A. Well, taking out the part about hiring me,
16 yes. I mean, I don't know who they're going to
17 hire. They may decide to hire you. But, sure, they
18 have the right to file contentions.

19 I thought in the Oconee case that the NRC
20 had denied some contentions or denied intervenors'
21 contentions.

22

645

1 Q. If, sir, the intervenors meet those
2 procedural guidelines, file those contentions, 54.27
3 says the Commission will grant a hearing, right?

4 A. It doesn't say that.

5 It says that an opportunity for hearing
6 will be provided.

7 If no one files a request for a hearing
8 within 30 days, the NRC may issue renewed operating
9 license without a hearing.

646

10 Q. It's not your position, though, that an
11 intervenor who follows the ground rules and files
12 contentions in a timely fashion in connection with
13 the license renewal application before the NRC can
14 be denied a hearing?

15 That's not your contention, is it?

16 A. I don't know the legalities --

17 MR. JOLLY: At this point I'm going to object. I
18 think we're asking for his interpretation of a CFR.
19 I think it speaks for itself and it's subject to
20 whatever interpretation Mr. McKenna wants to apply
21 to it.

22 MR. MC KENNA: I'll move on.

1 BY. MR. MC KENNA:

647 2 Q. Okay. 54.23, let's stop before we --

3 A. 54.23?

648 4 Q. Up two sections from where you are.

5 A. Yes, sir.

649 6 Q. You have to have an environmental analysis,

7 right?

8 A. That's correct.

650 9 Q. Now, jump over, if you would, to Page 47 of

10 the document -- jump backward, I should say, which

11 is Appendix B to the environmental regulations?

12 A. 47, okay.

651 13 Q. Actually it's on 46.

14 One side of the page is 46, one side of

15 the page is 47, right?

16 You there?

17 A. Yes, sir.

652 18 Q. And it says there, under Appendix B, about

19 halfway down, Table B-1, subject to an evaluation of

20 those issues identified in Category 2 as requiring

21 further analysis and possible significant new

22 information, represents the analysis of

1 environmental impacts associated with renewal,
2 right?

3 A. Yes, sir.

653 4 Q. And that means if there's a little number
5 two on Table B-1, you have got to discuss it in your
6 environmental statement, right?

7 A. That's correct. The NR -- I think there are
8 98 environmental issues, and the NRC issued a
9 generic environmental impact statement for
10 relicensing on -- for some reason the number 65
11 sticks in my mind.

12 I believe there's roughly 30 -some-odd
13 issues for which an applicant has to show the site
14 specific impact of relicensing.

654 15 Q. Right. Just -- we're not going to go
16 through 22 of them with you. I'm going to go
17 through about two.

18 If you look at the appendix, the first
19 No. 2 you see says what, sir?

20 A. First No. 2 is for the issue of entrainment
21 of fish and shellfish?

22

655 1 Q. Well, actually I think it's under surface
 2 water quality, water use conflicts.

 3 A. Sorry, you're right. I missed a No. 2.

656 4 Q. If you can't show that there's no problem in
 5 that regard, you can't get your license renewed,
 6 right?

 7 A. Yes. I mean, I would think so. It would
 8 depend on the conflict.

 9 I mean, you realize you're talking about
 10 an operating plant that's probably had the same
 11 conflict, so I mean, theoretically, it could be a
 12 problem but you'd have to look at the specifics for
 13 each plant. That's why the NRC requires them to
 14 file a site specific amendment.

657 15 Q. If it's 30, like you say, there's 30
 16 priority two issues that require site specific
 17 analysis, any one of those 30 issues could present a
 18 barrier to obtaining license renewal, right?

 19 A. It could or it could be that the utility
 20 would make some modification of its structures or
 21 procedures to resolve the issue easily.

 22

658 1 Q. Okay. And last question on these -- on this
 2 section of CFR, if you now go to 54.29, that's the
 3 section that identifies --
 4 A. 54.29?

659 5 Q. Right. It's Page 99, back in the back.
 6 A. Okay.

660 7 Q. That identifies standards -- the NRC
 8 standards for issuance of a renewed license, right?
 9 A. Yes, sir.

661 10 Q. And if you go down to the bottom of it, it
 11 says these matters, and it's got a list of three key
 12 standards, right, sir, or two with two subparts, I
 13 should say, right?
 14 A. Well, actually the two subparts refer -- the
 15 two standards are under Subpart A. So B and C
 16 aren't under Subpart A.
 17 So I think there's two standards, but
 18 yes.

662 19 Q. Let's just run through them.
 20 You have got managing the effects of
 21 aging during the period of extended operation,
 22 right?

1 A. That's what I mentioned before, yes, sir.

663 2 Q. There's some lookback in that, isn't there?

3 Its not just what happens in the future. It's what

4 happened in the past?

5 A. Well, you look at -- you do analyses with

6 what's likely to happen in the future based on

7 what's happened in the past so to that extent, yes.

664 8 Q. Fair enough.

9 Next, time limited aging analyses.

10 Again, there's lookback in that, right? They have

11 got to look back at all these different

12 safety-related systems or that might be

13 safety-related systems and do a time-limited aging

14 analysis, right?

15 A. Yeah, I don't think that there at the point

16 of thinking what might be safety systems.

17 I think there are safety-related systems

18 and there are nonsafety-related that have the

19 ability to affect the operation of safety-related

20 systems.

665 21 Q. Then you have got the environmental piece we

22 already talked about, right?

1 A. That's correct.

666 2 Q. And, finally, any matters raised under
3 2.758, right?

4 A. That's correct.

667 5 Q. And that's if the NRC staff raises an issue
6 at hearing or in the license renewal process, right?

7 A. I believe that that's what it is, correct.

668 8 Q. For any one of those areas, any one of those
9 areas that we have just went over, any issue could
10 be a show stopper, could it not?

11 A. I don't know. I mean, it hasn't in the past
12 with Ocone and Calvert Cliffs.

669 13 Q. Let's talk about that.
14 There were two license applications for
15 renewal, two license renewal applications filed and
16 approved so far, right?

17 A. Yes, sir.

670 18 Q. Nobody has been denied so far, right?

19 A. Yes, sir.

671 20 Q. Nobody has even had a public hearing at
21 which intervenors appeared so far, right?

22 A. That's correct.

672 1 Q. There's a lot of other people who have said
 2 they're going to apply and some people who have
 3 applied and haven't had a hearing or hadn't had a
 4 result, right?

 5 A. That's correct.

673 6 Q. But if you compare the number of plants that
 7 have filed and received license extensions to the
 8 number of plants that have closed before the end of
 9 their initial 40-year licensed life, it's true,
 10 isn't it, that there are many more plants that
 11 closed than that applied for and received an
 12 extended license?

 13 A. I don't know if you look at power reactors.
 14 I wouldn't agree that many more. The numbers are
 15 probably comparable.

674 16 Q. Well, let's take a look.

 17 A. I mean, the list as Mr. LaGuardia said is 10
 18 to 15 but a lot of those were small plants, initial,
 19 you know, older -- much older generation plants.

675 20 Q. Let's take a look at that.

 21 A. Okay.

 22

1 (Whereupon, ComEd Cross
2 Exhibit No. 11 was marked
3 for identification.)

4 BY. MR. MC KENNA:

676 5 Q. Okay, Mr. Schlissel, I have given you what
6 we have marked ComEd Cross Exhibit 11, Nuclear News'
7 world list of nuclear power plants including plants
8 no longer in service, right?

9 A. Yes, sir.

677 10 Q. And you accept this data, do you not?

11 A. Absolutely.

678 12 Q. And if you look at the United States nuclear
13 plants no longer in service data, let's just focus,
14 sir, on commercial size plants that have closed
15 since the beginning of 1989.

16 The number's 11, is it not?

17 MR. JOLLY: Could you define commercial size.

18 MR. MC KENNA: Pardon me? Did you ask me a
19 question?

20 MR. JOLLY: Could you define commercial size?

21 MR. MC KENNA: Anything over 167.

22 JUDGE HILLIARD: Megawatts?

1 MR. MC KENNA: Megawatts, yes, I'm sorry.

2 THE WITNESS: 11.

3 BY. MR. MC KENNA:

679 4 Q. So you have two plants who applied for and
5 received license extensions and 11 plants since '89
6 of a size of 167 megawatts or greater that have shut
7 down before the end of the term of their licenses?

8 A. No. You have got 5 units that have received
9 licenses and 11 units that have shut down.

680 10 Q. You don't have -- I see, you're talking
11 about there are 5 units in connection with the two
12 plants whose licenses have been extended?

13 A. Correct. You're using the word plant to
14 mean multiples. So it's 5 units and 11 units.

681 15 Q. Okay. So you have got 11 units that have
16 shut down prematurely since '89; 5 units that have
17 had their licenses extended, right?

18 A. Yes.

682 19 Q. Okay. Now, let's talk about power uprates
20 for a minute.

21 You have got some testimony there on Page
22 6 of your prefiled direct, and I think you say there

1 that ComEd has told the NRC it intends to submit an
2 application this year for an extended power uprate,
3 and it's your view based upon that that that's some
4 evidence that ComEd intends to operate these
5 stations at least for the end of their NRC licensed
6 lives, right?

7 A. Yes, sir.

683 8 Q. Now, it is true, isn't it, that you,
9 yourself, say in your testimony a couple pages later
10 that the power uprate cost, while significant, is
11 projected to be earned back in one year, right?

12 A. That's what I believed at the time. I have
13 since seen internal company document that discusses
14 a three-year payback period.

684 15 Q. Okay. All right. But at the time of your
16 original prefiled testimony, you thought it was one;
17 now you think it's three, right?

18 A. It's some -- I'm not sure. It's somewhere
19 short, one or three.

685 20 Q. Either way it's an earnback before the end
21 of the existing licensed lives --

22 A. Yes.

686 1 Q. -- at Dresden, right?

 2 A. Yes, sir.

687 3 Q. Before we move on to DOE spent storage

 4 costs, let me ask you, sir:

 5 Isn't it true that as far as you know, no

 6 regulatory commission has based decommissioning

 7 collections on an assumption that a nuclear unit

 8 would operate longer than its original 40 -year

 9 licensed life?

 10 A. That's correct. The issue is before the

 11 Arkansas Public Service Commission Now, but I'm not

 12 aware of any other commission that's decided it.

688 13 Q. There's no ruling yet from Arkansas?

 14 A. Yes, sir.

689 15 Q. Okay. Now, if you get a license extension

 16 as you hypothesize here -- as you opine here, I

 17 should say, decommissioning costs could go up,

 18 right?

 19 A. I would expect that decommissioning costs

 20 would go up. As you push it into the future, the

 21 costs will escalate.

 22

690 1 Q. Well, you call the risk of significantly
 2 increased decommissioning costs minor, correct?
 3 If you look at Page 16 of your testimony.
 4 At most there appears to be a minor risk that
 5 nuclear plant license extensions might increase
 6 decommissioning costs beyond the levels currently
 7 estimated, right?

 8 A. Yes.

691 9 Q. Okay. And you go on to make a reference to
 10 Mr. LaGuardia and say, well, according to
 11 Mr. LaGuardia, once you start up, everything is
 12 irradiated and so you're really going to incur the
 13 same costs whether you run for 60 years or 40 years
 14 or 20 years or 10 years, right?

 15 A. Yes.

692 16 Q. But that rationale is only true with respect
 17 to components that are irradiated almost immediately
 18 upon startup of the plant, right?

 19 A. Yes.

693 20 Q. If you have an extended life, you're going
 21 to bring in new components, right?

 22 A. You might change out some equipment, yes.

694 1 Q. And you might expand equipment; you might
 2 change equipment, right?

 3 A. I don't know what you mean by expand
 4 equipment.

 5 I can see changing equipment. I can see
 6 repairing it but I don't know what expanding
 7 equipment.

695 8 Q. You could see increasing the area of
 9 contamination, couldn't you?

 10 A. Not unless -- I don't know what you mean.

 11 I mean, unless you build a new -- I don't
 12 see them building a new wing. I mean, it's not like
 13 a hotel where you build a new wing on.

696 14 Q. But you do agree that to the extent that
 15 equipment comes in on the primary side, new
 16 equipment, that that's going to add to the total
 17 cost, right?

 18 A. I don't know. I mean, you'd be -- assume
 19 you replaced a pump, for an example, and that the
 20 first pump was degraded, you took it out and you had
 21 to decontaminate it in order to be able to get rid
 22 of it.

1 I mean, my general understanding is that
2 utilities do that work as O and M expenditures or a
3 capital addition, not out of plant -- they don't --
4 I know they don't do it out of the plant's
5 decommissioning fund.

6 So the new pump comes in, it's not been
7 contaminated, you put it in and over the next 30
8 years it becomes contaminated. Well, that's a
9 cost -- you still have the cost in your
10 decommissioning fund of decontaminating the pump.

11 It's no longer the original pump but you
12 don't have the cost now of decontaminating two
13 pumps.

697 14 Q. Assume that in 20 years, substantial new
15 modifications are required by the NRC on the primary
16 side.

17 A. Okay.

698 18 Q. We couldn't even tell sitting here today
19 what they might be, right?

20 A. Sure. Because the NRC hasn't proposed
21 anything.

22

699 1 Q. And they won't for many years to come,
 2 right?

 3 A. And they may never.

700 4 Q. But that's a substantial risk, right? It's
 5 not a minor risk?

 6 A. It's a risk. I mean, I don't know how
 7 substantial it is, but it's a risk.

701 8 Q. And the risks of any of these eventualities
 9 coming to pass or not coming to pass are the risks
 10 that have to be weighed in deciding whether there
 11 will be a license renewal or what the cost would be
 12 of decommissioning expense, right?

 13 A. Well, it's -- yes, I guess I would agree.

702 14 Q. And furthermore, wouldn't it also be
 15 correct, Mr. Schlissel, that let's just say as time
 16 goes on, low-level waste burial costs continue to
 17 rise higher and higher beyond anyone's expectation.
 18 That's a risk with respect to
 19 substantially increased decommissioning costs in the
 20 future, right?

 21 A. Correct.

 22

703 1 Q. And the DOE, their failure to either remove
 2 spent fuel or reimburse utilities, that's another
 3 risk, right?

 4 A. A minor one, but it's a risk.

704 5 Q. Okay. Let's talk about why you think that's
 6 minor.

 7 Now, you say at Page 23 of your testimony
 8 that, as I understand it, the DOE's failure to
 9 accept nuclear fuel for permanent disposal should
 10 not concern the ICC at this time.

 11 You call it a relatively small risk,
 12 right?

 13 A. Yes, sir.

705 14 Q. Now, there's actually a lot of history to
 15 that, isn't there?

 16 A. There's been a lot of litigation over it,
 17 yes, sir.

706 18 Q. And the litigation is nowhere near over,
 19 right?

 20 A. That's unclear.

 21

 22

707 1 Q. Okay. Well, I see you say in your
 2 testimony at Page 24, federal courts have already
 3 found the DOE in breach of its contract to take
 4 spent fuel for permanent disposal.
 5 Quantification of damages is the
 6 remaining issue to be litigated.
 7 Right?
 8 A. Correct.

708 9 Q. Okay. Isn't it true that the DOE signed
 10 contracts with every nuclear power plant in the
 11 country, right?
 12 A. Yes, sir.

709 13 Q. And they said they'd start taking away the
 14 spent fuel in January of 1998, right?
 15 A. Yes, sir.

710 16 Q. And they didn't do it, right?
 17 A. Yes.

711 18 Q. And even before that happened they announced
 19 they weren't going to do it, right?
 20 A. Yes, sir.

712 21 Q. They got sued by a group of utilities,
 22 right?

1 A. Several groups of utilities.

713 2 Q. And the DC Circuit held you're in breach of
3 your contract, right?

4 A. Correct.

714 5 Q. But imposed no remedy, right?

6 A. I believe that's correct, yes.

715 7 Q. Then the DOE announced that despite the
8 holding of a breach of contract, they still weren't
9 going to either compensate utilities or pick up the
10 spent fuel, right?

11 A. They may have said that, but that's not
12 their position recently.

716 13 Q. And then the utilities sued again, right?
14 And this time they asked for a writ of
15 mandamus, right?

16 A. Yes.

717 17 Q. They asked for an order directing the DOE to
18 pick up the fuel, right?

19 A. Yes.

718 20 Q. And they didn't get it, right?

21 A. That's correct.

719 22 Q. And then they sued again, utility by utility

1 in the court of claims, right?

2 A. Correct.

720

3 Q. And they wanted money at this point to
4 compensate them for the DOE's refusal to pick up the
5 spent fuel, right?

6 A. That's correct.

7 As I understand it, if they succeed in
8 the court of claim, it's -- the damages are paid for
9 out of the general tax fund. In other words, you
10 and I and everyone in this room.

11 If they, under the DOE's plan, the
12 dollars come out of the spent fuel fund itself.
13 That's a difference in where the dollars come from.

721

14 Q. You're getting ahead of me a little bit.

15 A. Okay.

722

16 Q. They sue in the court of claims, the DOE
17 defends and says, oh, I don't have to defend a
18 lawsuit, you have to go to the contracting officer
19 for an equitable adjustment.

20 Isn't that what happened next?

21 A. I believe that's what they said, yes.

22

723 1 Q. And the court of claims, two different
 2 judges, one said yes and the other said no, right?
 3 A. I don't remember that part.

724 4 Q. And it's on appeal again, right?
 5 A. I think that's true, yes.

725 6 Q. And there's no ruling yet, right?
 7 A. Correct.

726 8 Q. And there's not one utility in this country
 9 that has received one dollar in judgments against
 10 the DOE, right?

 11 A. That's correct, but as you know PECO has
 12 recently signed an agreement with the DOE for, I
 13 think, ten years of spent fuel costs.

727 14 Q. I want to talk to you for just a moment
 15 about what you said a few seconds ago relating to
 16 the concept the DOE has that they'll let you perhaps
 17 reduce your immediate payments into the fund
 18 designed to take care of spent fuel, right?

 19 A. Right.

728 20 Q. Okay. Isn't it a fact that the Illinois
 21 Commerce Commission, among others, filed an amicus
 22 brief in the DC Circuit in which it called that

1 remedy illusory and flawed?

2 A. I don't know what they called it.

3 I'm willing to accept it subject to
4 check, but I remember being handed this brief when I
5 was on the witness stand in Docket 99-0115.

6 (Change of reporters.)

729 7 Q. Isn't it a fact that the Illinois Commerce
8 Commission in the AMICUS brief it filed specifically
9 stated along with all the other indices that the
10 revenue you just discussed would be a complete
11 futility and absurdity?

12 A. I'll accept it subject to check, but that
13 hasn't prevented PECO from going ahead and making an
14 agreement.

730 15 Q. And that they also said in that same brief
16 that the DOE would be permitted, by this remedy
17 we've been discussing, to unilaterally abrogate or
18 definitely delay the spent nuclear fuel disposal
19 program without liability or consequence?

20 A. Again, I'll accept it subject to check. It
21 sounds familiar from my cross examination last year.

731 22 Q. Now, on this DOE failure to collect the

1 spent fuel, we have a comment in your testimony at
2 Page 24 about how those costs will not be incurred
3 or will not result until after any license extension
4 period that may be granted expires, right?

5 A. That's correct.

732 6 Q. But you do agree that Com Ed or Genco, as
7 the case may be, whoever owns these plants will have
8 to pay storage costs as long as there is no
9 permanent disposal site available, right?

10 A. I mean the costs fall under two types, those
11 which are general operating costs and then those
12 related to decommissioning of the plant. Since we
13 are discussing decommissioning in this proceeding, I
14 thought we should focus on that and therefore I was
15 pointing out here that those costs won't be incurred
16 for many years.

733 17 Q. And you would agree with me,
18 Mr. Schlissel, that the longer the DOE delays with
19 picking up spent fuel, the more those costs will
20 arise, however you described them, or define them or
21 account for them?

22 A. I would expect that that's correct. The

1 DOE, hypothetically could increase their take rate,
2 the rate at which they would take fuel from power
3 plants. So ultimately, it might have no impact, but
4 there is no way to tell.

734 5 Q. But of course the DOE at this point has
6 given absolutely no indication of when they will
7 come up and pick up the first spent fuel from the
8 U.S. nuclear power plant, right?

9 A. That's correct.

735 10 Q. They said their permanent repository
11 shouldn't even be expected to be opened before 2010,
12 right?

13 A. That's correct.

736 14 Q. And you do agree with me, do you not, that
15 all costs associated with spent fuel storage after
16 plant shut down and prior to DOE acceptance are the
17 responsibility of the owner of the plant, right?

18 A. I'm sorry?

737 19 Q. All spent fuel storage costs, which are
20 occurred after shut down and before the DOE starts
21 to pick up the fuel, those in the first instance
22 have to be paid for by the owner of that plant,

1 right?

2 A. Not precisely. It's between the shut down,
3 and when they would have been picked up by the DOE,
4 if the DOE had met its contractual obligation to
5 begin taking fuel as of, I think it's after January
6 31st, 1998. So that -- I mean it's possible that
7 the utility would be on the hook for some of the
8 costs, yes.

738 9 Q. Well, you agree with me, don't you, that
10 take Zion for an example, shut down, right?

11 A. Yes, sir.

739 12 Q. They are incurring spent fuel costs today,
13 right?

14 A. Yes.

740 15 Q. And spent fuel storage costs that they are
16 incurring, they've got to pay, right?

17 A. Under current collections I believe that's
18 true. As I say in my testimony, I'm sure you recall
19 from the 1999 case, I mean the company was seeking
20 some of those costs in its rates -- what is it,
21 Rider 31?

741 22 Q. Right. And staff was objecting and saying

1 you are going to get this money back some day from
2 the DOE, right?

3 A. But as you are aware, I didn't object to
4 that.

742 5 Q. And you view that as a proper
6 decommissioning cost, the cost between -- the cost
7 for storing the spent fuel between closing of the
8 plant and pick up by the DOE?

9 A. When the DOE would have picked up if they
10 had met their contractual obligations yes, I think
11 that's a reasonable decommissioning.

743 12 Q. And you know that Com Ed, for example, in
13 this whole litigation saga with the DOE, they filed
14 a case in the court of claims as well, right?

15 A. I believe they did it with a couple of other
16 utilities.

744 17 Q. And their case is stayed, right?

18 A. Not surprised, yes.

19 MR. McKENNA: Can you give me one second, I'll
20 see whether there is anything else. No further
21 questions.

22 JUDGE CASEY: Any other cross?

1 MS. DOSS: I have a question.

2 JUDGE CASEY: Ms. Doss.

3

4

5 CROSS EXAMINATION

6 BY

7 MS. DOSS:

745 8 Q. Good afternoon, Mr. Schlissel, Leijuana Doss
9 on behalf of the People of Cook County. I just
10 wanted to make sure, are you submitting testimony
11 regarding the costs and risks associated with low
12 level waste disposal that this Commission should
13 consider in this docket?

14 A. To a limited extent, yes. I said, you know,
15 I believe that analysis similar to that of
16 Mr. Riley is reasonable.

746 17 Q. Now, you indicated that the risk of low
18 level waste disposal could go up, is there also a
19 risk that low level waste may go down?

20 A. Well, based on my long line of questions
21 with counsel for Commonwealth Edison that I can't
22 guarantee the future, yes, it's possible that low

1 level waste costs could go down over the long term.
2 It's not very likely given what we've seen in the
3 recent past, but I can't guarantee it won't happen.

747 4 Q. And if it did go down, as some low level
5 waste costs did decrease, who would bear the risk
6 based on Com Ed's proposal?

7 A. Well, under the original proposal ratepayers
8 would bear the risk. Well, ratepayers -- the fund
9 would have excess -- more excess funds in it and the
10 company would get to keep it. So ratepayers would
11 pay for a cost that didn't happen.

748 12 Q. And what is your expertise with respect to
13 low level waste?

14 A. I followed costs, the reasons for costs in a
15 number of nuclear power plant reviews I performed.

749 16 Q. So just analyzing different articles?

17 A. Yes.

750 18 Q. I've not been involved in handling low level
19 nuclear waste, or bearing it.

20 MS. DOSS: No further questions.

21 JUDGE HILLIARD: Anybody else? I've got a few
22 questions.

1 EXAMINATION

2 BY

3 JUDGE HILLIARD:

751 4 Q. Early in your testimony you were asked about
5 what you thought about the revised proposal, and
6 your answer was something to the effect that you
7 were concerned about the details, or the details
8 that weren't expressed in the revised proposal?

9 A. Yes, sir.

752 10 Q. Could you discuss for me what concerns you
11 have about the revised proposal, or what detail you
12 would like to see?

13 A. Well, I mean clearly it takes a step in the
14 right direction, because it would refund dollars
15 back to ratepayers. But what I'm concerned about is
16 that if the company is allowed to overcollect today,
17 and it's generally reasonable to believe it's an
18 over collection, the dollars that will ultimately be
19 repaid will be to the great-great grandchildren, I
20 think it is, or great grandchildren, I may have one
21 too many greats in there, grandchildren of current
22 ratepayers. And I'm concerned about

1 intergenerational inequities in that process.

2 Also, it's pretty clear to me now that
3 the company can't use the decommissioning funds for
4 any other purpose. But if that requirement is
5 changed, and I don't have any inside information on
6 it being changed, but if that's changed, the company
7 could use some of these funds in the interim to
8 their benefit, some of the excess funds or expected
9 excess funds. And it's possible that the company
10 could benefit off those funds, rather than
11 ratepayers having them to use for their own good.

753 12 Q. Is that?

13 A. That's what I can think of so far. Again,
14 it's only been a week or so that I've had the
15 company's rebuttal testimony.

754 16 Q. On Page 28 of your direct?

17 A. Yes, sir.

755 18 Q. You reference a 4.84 annual decommissioning
19 cost escalation rate?

20 A. Yes, that should be the 4.73 that was
21 discussed with Mr. Riley this morning.

756 22 Q. What's your understanding of the

1 relationship between that 4.73 percent and the 4.11
2 percent that's in the proposal made to the
3 Commission?

4 A. My understanding is unclear. I believe that
5 the 4.73 is what the company in the '99 case
6 testified was reasonable, but that their current
7 proposal is based on 4.11. You would have to ask
8 the company why they used the lower number. I don't
9 understand it.

757 10 Q. What's your opinion of the best and most
11 reasonable escalation rate?

12 A. I think somewhere in the range of 4.73
13 downward is reasonable. As I mentioned in my
14 testimony, it's consistent with other estimates I've
15 seen, and I've seen estimates as low as 3.5 percent
16 from credible sources, independent credible sources.

758 17 Q. Is that -- that 3.5 percent, does that have
18 to do with those plants that are part of that
19 compact where they can send their waste to South
20 Carolina?

21 A. No, it's a Vermont plant.

759 22 Q. Assuming that the EPA reflects market prices

1 for power in 2005 and 2006, do you know if the
2 market price received or to be received by Genco
3 would provide funds to cover generating expense?

4 A. No. One of the discovery question we've
5 asked, that I've not seen the answer to asked the
6 company to give us the details on how the market
7 prices were forecast. I mean, how their specific
8 prices in the agreement were set, or the proposed
9 agreement was set, and then their other recent
10 market price forecasts.

11 And I don't know that we've gotten
12 answers to those, I've not seen them, if we got them
13 they were in the last day. So I don't have any
14 basis to talk about the market prices.

760 15 Q. Assuming the merger goes through here, do
16 you know what percentage of the operating plants in
17 the United States will be under the umbrella of
18 PECO.

19 A. Well, PECO currently owns all of four
20 plants, and parts of three others, I think, two or
21 three others. And then you have 10 from
22 Commonwealth Edison, Amergen currently owns Three

1 Mile Island One, Clinton, and I don't know whether
2 they've closed on Oyster Creek, so that's 20, 20 out
3 of 105, 103, whatever would be owned by the umbrella
4 company that would own PECO and Commonwealth Edison.

761

5 Q. In addition to that group, how many other
6 employers will be in the market, in the generation
7 market, in say five years time?

8 A. The nuclear generation market, I think there
9 will be five. I think there will be five or six
10 large players, but I think you are going to have a
11 number of small independents who will still hold on
12 to their plants because they are really doing well
13 and its really ingrained. But I think you will find
14 some stubborn little independents out there, mom and
15 pop nuclear plants if you can call them that, as
16 opposed to chains.

17 But I think generally you will have
18 Exelon-Genco, you will have Dominion Resources,
19 Constellation, Duke Power Company, under Genco I was
20 considering Amergen, Genco-Amergen. You may have a
21 few more big ones and they will control a large bulk
22 of the nuclear power in the country.

762

1 Q. Do you have any suggestions about conditions
2 the Commission should add to the refund proposal to
3 assure that refunds are eventually made?

4 A. Sitting here, I mean I just haven't reviewed
5 the details, seen any details of it to be able to
6 say, I'm sorry. Mr. Biewald might be able to answer
7 some of those when he testifies on Tuesday, I
8 believe.

763

9 Q. Another facet of the revised proposal is
10 that there would be no contribution from the
11 ratepayers for 2005,2006 unless Com Ed purchased
12 power from Genco. Do have an opinion about whether
13 or not the payments should be scaled to the
14 percentage of power purchased from Genco?

15 A. I think that's reasonable. But I think the
16 big concern is what Mr. Riley articulately said
17 today is that having \$120 million on the table in
18 each of the years would really be a big incentive
19 for the company to reach an agreement that may not
20 benefit ratepayers. I mean, overall, the price
21 might be low, but when you consider the \$120 million
22 kicker, so to speak, it might be unfair to

1 ratepayers.

2 JUDGE HILLIARD: That's all I have.

3 JUDGE CASEY: Redirect.

4 MR. JOLLY: Can I have a few minutes?

5 JUDGE HILLIARD: Sure.

6 (Whereupon, there was
7 a short break taken.)

8 JUDGE CASEY: All right, we are going to go back
9 on the record. Mr. Jolly, after you had a few
10 minutes to decide whether or not you wanted to
11 continue with redirect, what did you decide?

12 MR. JOLLY: A few questions.

13 REDIRECT EXAMINATION

14 BY

15 MR. JOLLY:

764 16 Q. Mr. Schlissel, Mr. McKenna asked you a few
17 questions regarding your testimony in Docket
18 No. 99-0115 and one of those questions concerned the
19 fact that you did not take a position regarding
20 whether or not Edison's decommissioning costs are
21 overfunded. Why did you not take such a position in
22 that case?

1 A. The issues, although the Rider 31 case
2 didn't overall look at all the company's power
3 plants, the company's testimony really focused on
4 Zion 1 and 2 and Dresden 1, changes in the forecast.
5 That helped us focus just on those plants, and Zion
6 1 and 2 were a power plant which had shut down
7 early, so it was kind of the
8 opposite -- there was no issue of life extension for
9 a plant that was already shut down.

10 That, plus the fact that the NRC had not
11 yet issued any licenses, or extended licenses, kind
12 of focused us away from looking at these issues in
13 the last case.

765 14 Q. Mr. McKenna also asked you some questions
15 regarding potential inadequate funding endangering
16 safety, public health and welfare, and Hearing
17 Examiner Hilliard also asked you regarding a
18 question about whether or not the PPA, if it
19 reflected market price, whether or not there would
20 be sufficient margin to cover decommissioning costs.

21 Have you seen anything in these documents
22 from the company that would indicate to you that

1 potential market prices for Edison power versus
2 production causes would be sufficient to cover
3 decommissioning costs?

4 A. Yes, one of the presentations to the board
5 of directors that was provided in response to --

6 JUDGE HILLIARD: Is this confidential.

7 MR. JOLLY: Yes, its, I'm sorry.

8 JUDGE HILLIARD: We are going to need to go in
9 camera and on the bottom of the microphones, there
10 is supposed to be a switch that you want to flip
11 from mute to talk.

12

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1 (Whereupon the following
2 proceedings were had out of camera.) BY

3 MR. JOLLY:

1 4 Q. And I think you testified that Commonwealth
5 Edison's company's performance has been better
6 lately; is that correct?

7 A. Yes.

2 8 Q. Now, as part of its proposed merger, isn't
9 it true that Edison is proposing to merge with PECO?

10 A. Yes.

3 11 Q. And PECO, they operate nuclear power plants,
12 correct?

13 A. That's correct.

4 14 Q. And what is their reputation with respect to
15 managing and operating nuclear power plants?

16 A. They have an excellent reputation.

5 17 Q. And do you think that Edison will benefit
18 because of this merger with PECO with respect to
19 nuclear power plant operations?

20 A. I think it's reasonable that they will, yes.

6 21 Q. Now, Mr. McKenna also asked you some
22 questions about your testimony that you expect NRC

1 to approve license renewals for Dresden and Quad
2 Cities. Have you seen anything -- and we will be
3 going back into in camera.

4 JUDGE CASEY: With respect to the remainder of
5 your redirect, is it all going to be confidential?

6 MR. JOLLY: This is the last point.

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1 (Whereupon the following
2 proceedings were had out of camera.) BY

3 MR. JOLLY:

1 4 Q. And finally, Mr. McKenna showed you an
5 exhibit marked Edison Cross Exhibit 11, which is a
6 two-page document from Nuclear News. And there is a
7 list there of power plants, nuclear power plants
8 that have closed in the United States. Do you have
9 any comments regarding the plants that appear on
10 that list?

11 A. Yes. The comparison that Mr. McKenna and I
12 went through where I said there were five units that
13 had received extended licenses, and 11 had retired
14 prematurely, I think that comparison basically
15 doesn't show anything. If you look at the list of
16 plants that have retired prematurely, one of them
17 Ford St. Frain was called a high temperature gas
18 reactor, completely different design than any other
19 in the domestic U.S. it was one of a kind, they
20 made mistakes in designing and operating it, it
21 closed down. That says nothing about the likelihood
22 of any of Edison's plants shutting down.

1 Three of the plants that have shut down
2 prematurely San Onofre, Trojan and Maine Yankee shut
3 down because of steam generator tube related
4 problems, high cost of replacing steam generators.
5 With recent successful replacement of the steam
6 generators in Braidwood Unit 1 and Byron Unit 1, I
7 don't anticipate there being any steam generator
8 related problems at Com Ed's plants, any significant
9 capacity problems given the design of the steam
10 generators in those plants and the operational
11 procedures and requirements that Edison uses for
12 operating the plants.

13 So that's roughly 4 of the 11 having shut
14 down -- have shut down for reasons that are not
15 likely to be duplicated at Edison. Finally, for
16 this, the Shorum nuclear power plant is one of the
17 11. Shorum basically barely ever operated. It was
18 a political decision, the people on Long Island and
19 the state of New York didn't want the plant to ever
20 turn on. It was turned on for low level power
21 testing.

2 22 Q. In fact, there is a footnote there at the

1 bottom that indicates that; isn't that correct?

2 A. That's correct, it never began commercial
3 operation. So if you take that one out, you are
4 basically saying, well, five units have extended
5 licenses, six have shut down prematurely, perhaps
6 for economic reasons, although even with that the
7 Millstone one and Haddam Neck plants were shut down,
8 in a large part because their owner operator,
9 Northeast utilities had grossly mismanaged the
10 plants for years and it would have been very
11 expensive to return the plants to operations.

12 Of course, that could happen with Edison
13 in the future, I would expect it would not happen
14 and I would hope it would not happen that they would
15 not grossly mismanage their plants for years.
16 Again, I don't expect it to happen. So the
17 comparison really says nothing.

18 And for a final reason, and probably more
19 importantly, if you look at the number of plants
20 that are either in the pipeline having filed
21 applications, another three units are awaiting
22 licenses now, are in the application process. And

1 anywhere, depending on whose statistics you look at,
2 between 23 and 33 other units are going to file
3 applications in the next few years. Obviously
4 utilities think that life extension is a good idea.

5 MR. JOLLY: Nothing further.

6

7 RECROSS EXAMINATION

8 BY

9 MR. McKENNA:

3 10 Q. I just have one subject and it goes back to
11 one confidential document and that is Cross Exhibit
12 2.

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1 (Whereupon the following
2 proceedings were had out of camera.)
3 (Whereupon Edison Cross
4 Exhibits Nos. 10 and 11 were
5 admitted into evidence.)

6 JUDGE HILLIARD: So we don't forget I think the
7 last questions were in camera, we are back on the
8 record now.

9 MR. ROBERTSON: Mr. Examiner, at this time we
10 would call Mr. Robert R. Stephens on behalf of the
11 Illinois Industrial Electrical Consultants.

12 (Witness sworn.)

13 JUDGE CASEY: Mr. Robertson, please proceed.

14 MR. ROBERTSON: Yes, we've marked two copies of
15 Mr. Stephens Exhibit 1 is the unredacted copy which
16 is marked as IIEC Exhibit 1P for proprietary, and
17 the second is the unredacted -- I'm sorry the
18 redacted copy of Mr. Stephens direct testimony,
19 which has been marked as IIEC Exhibit 1.

20 ROBERT R. STEPHENS,
21 called as a witness herein, having been first duly
22 sworn, was examined and testified as follows:

1 DIRECT EXAMINATION

2 BY

3 MR. ROBERTSON:

1 4 Q. Mr. Stephens, I show you the document that
5 has been marked as IIEC Exhibit 1P, your unredacted
6 direct testimony. And ask you whether or not you've
7 seen that document before?

8 A. Yes, I have.

2 9 Q. And is that a document that consists of 16
10 pages of questions and answers and a 2 -page Appendix
11 A?

12 A. Yes.

3 13 Q. And do you have any additions or corrections
14 or deletions to that document?

15 A. No.

4 16 Q. And was the document prepared under your
17 supervision and at your direction?

18 A. Yes.

19

5 20 Q. If I were to ask you the questions that are
21 contained therein today would your answers be the
22 same?

1 A. Yes.

6 2 Q. I show you also what has been previously
3 marked as IIEC Exhibit 1, the redacted copy of
4 direct testimony of Robert R. Stephens. Do you have
5 that document?

6 A. I do.

7 7 Q. And is that a document that consists of 16
8 pages of questions and answers plus a two page
9 Appendix A?

10 A. Yes, it does.

8 11 Q. If I were to -- was the document prepared
12 under your supervision and at your direction?

13 A. Yes.

9 14 Q. If were to ask you the questions that are
15 contained therein would your answers be the same as
16 contained therein?

17 A. Yes.

10 18 Q. Do you have any additions or corrections to
19 that document?

20 A. No.

11 21 Q. ?

22

1 MR. ROBERTSON: Mr. Examiner, we would move the
2 admission of IIEC Exhibit 1P and IIEC Exhibit 1 and
3 tender the witness for cross examination.

4 JUDGE CASEY: Any objections?

5 MR. McKENNA: No objection.

6 MR. REVETHIS: No objection.

7 JUDGE CASEY: Be admitted subject to cross.

8 (Whereupon IIEC
9 Exhibits Nos. 1P and 1 were
10 admitted into evidence.)

11 JUDGE CASEY: Who is going first with cross?

12 MR. McKENNA: I'm prepared to.

13 JUDGE CASEY: Then you are up, Mr. McKenna.

14 CROSS EXAMINATION

15 BY

16 MR. McKENNA:

12 17 Q. Good afternoon, Mr. Stephens, let me just
18 walk you briefly through your experience, okay?

19 A. Okay.

20

13 21 Q. I understand from your resume that you at
22 one point during college worked in a gas department

1 at CIPS, right?

2 A. That's correct.

14 3 Q. And then you worked as a mechanical engineer
4 with Illinois Department of Energy, right?

5 A. To be technically correct it's the Illinois
6 Department of Energy and Natural Resources.

15 7 Q. You were an energy planner at City Water and
8 Light in Springfield, right?

9 A. Yes, it was with City, Water, Light and
10 Power in Springfield.

16 11 Q. And let's just stop right there. None of
12 those positions that we talked about so far involve
13 nuclear decommissioning or any type of nuclear
14 engineering, right?

15 A. That's correct.

17 16 Q. Now, let's move on. Then you went to work
17 for the Commission where you were an economic
18 analyst and executive assistance to one of the
19 commissioners, right?

20 A. Yes.

18 21 Q. And I understand that you gave some
22 testimony while you were with the Commission, as

1 well as performing other duties, correct?

2 A. That is correct.

19 3 Q. But as I understand, the only testimony you
4 gave relating to nuclear power or nuclear generating
5 units involved used and useful concepts with respect
6 to Byron and Braidwood, right?

7 A. That's correct.

20 8 Q. None of your testimony involved divestiture of
9 nuclear assets, right?

10 A. That's correct.

21 11 Q. And none involved nuclear decommissioning,
12 correct?

13 A. That is correct.

22 14 Q. From '97 until the present you've been in
15 the consulting business, correct?

16 A. Yes.

23 17 Q. And you've consulted and testified on
18 various rate and restructuring matters and power
19 supply matters, right?

20 A. Yes.

24 21 Q. But none of your testimony involved nuclear
22 decommissioning, correct?

1 A. None of my testimony, that's correct.

25 2 Q. In your whole career you've never given any
3 testimony regarding the divestiture of nuclear assets,
4 right?

5 A. That's correct.

26 6 Q. Nor on the subject of nuclear
7 decommissioning, right?

8 A. That is true, prior to this case.

27 9 Q. Of course.

10 A. That's correct.

28 11 Q. Nor on the subject of NRC license renewal?

12 A. That's correct.

29 13 Q. And you never written any articles, papers,
14 speeches or similar presentations regarding the
15 divestiture of the nuclear assets or decommissioning,
16 right?

17 A. That's correct.

30 18 Q. And you are not an expert, a hands-on expert
19 in constructing decommissioning cost estimates,
20 right?

21 A. I have never constructed a decommissioning
22 cost estimate.

31 1 Q. And you are not any sort of board certified
 2 cost engineer, right?

 3 A. Correct.

32 4 Q. Now let's go to the first subject that I
 5 want to discuss with you on the merits here,
 6 Mr. Stephens. At Page 13 of your unredacted
 7 testimony, I think at this point we are not into
 8 confidential yet. As I see his Page 13, part of his
 9 Genco profit analysis is confidential and part is
 10 not. So I'll try to say when I think we are
 11 stepping over the line.

 12 A. I'll try to do that as well.

33 13 Q. Thank you very much, sir. You suggest that
 14 Genco, in the event that the nuclear plants are
 15 transferred, is going to make profits, right?

 16 A. I made an illustration where that would be
 17 the case.

34 18 Q. And that's what I want to discuss with you,
 19 and I'm sure Genco thinks it wants to make profits
 20 as well. But you contend that the profits that you
 21 illustrate here in your testimony show funds that
 22 could be used to pay decommissioning costs, right?

1 A. Yes.

35 2 Q. And that also helps you get to your
3 conclusion which appears on Page 13 that separate
4 sources of decommissioning funding above and beyond
5 what's in the trust today are unnecessary, right?

6 A. Let's see, that entire sentence says
7 apparently the Genco arrangement anticipates
8 circumstances where the Genco will be able to sell
9 the output of the units and acquire enough profits
10 so that separate sources of decommission funding
11 will not be necessary. And that statement was made
12 in response to an earlier part of the testimony
13 where it was indicated that by virtue of the fact
14 that Genco is not a public utility it will not have
15 its own separate decommissioning rider.

36 16 Q. Right. My question to you is a more basic
17 one. It's your opinion that the profits that you
18 expect Genco to make will be sufficient such that
19 beyond what's currently in the decommissioning
20 trust, no separate sources of decommissioning
21 funding will be necessary, am I right?

22 A. My statement in my testimony is that

1 apparently the Genco arrangement anticipates those
2 circumstances. And by the way, the illustration
3 that I offered to the Commission tends to bear out
4 that conclusion.

37 5 Q. Well, I'm going to talk to you about the
6 illustration in a minute, but I'm just trying to
7 understand. Are you telling us that in your opinion
8 the profits of Genco are going to be so significant
9 that Genco can go ahead and take care of all the
10 decommissioning costs and it needs no trusts, no
11 money from the trusts and no money from the
12 ratepayers?

13 A. No, that's not correct.

38 14 Q. So you are saying, as I thought, that if
15 Genco gained control of the trusts, the assets of
16 the trusts, in your opinion, are sufficient without
17 further funds from ratepayers to take care of
18 decommissions taking into account profits that you
19 expect them to earn, right?

20 A. My testimony is that given the assumptions
21 embodied within my illustration, the Genco would
22 make a large margin on its investment. And even if

1 you considered -- even if the Genco had to make
2 contributions of \$121 million per year, it would
3 still have an ample return on its investment.

4 Q. But you are not testifying here that the
5 Genco should not receive a transfer, or the benefit
6 of a transfer, of the assets currently in the
7 decommissions trust, are you?

8 MR. ROBERTSON: Wait a minute, that issue is
9 decided in another docket that relates to Section
10 1611 (g) Docket 00-0394. The Commission has entered
11 an order and it wasn't my understanding that the
12 legality of the transfer of the trust funds was an
13 issue here. And I don't think this witness speaks
14 to that issue in his testimony. Therefore I think
15 it's outside the scope.

16 MR. McKENNA: Well, let him tell me that. I just
17 want to understand his testimony, sir.

18 MR. ROBERTSON: I want a ruling as to whether or
19 not the Examiners believe this is inside the scope
20 of his testimony. It's an issue that has been taken
21 up as a separate order in another case.

22 JUDGE CASEY: Mr. McKenna, are you asking him

1 whether he thinks the transfer is legal or not?

2 MR. McKENNA: No, I don't want his legal opinion.
3 I'm trying to understand his expert opinion here.
4 Is he saying, look, there is enough money from these
5 supposed profits that he is illustrating in his
6 testimony that they don't even need to have any of
7 the assets that were in the trusts? Or is he
8 saying, whatever happens with the trusts, that money
9 plus these profits are sufficient? That's what I'm
10 getting at.

11 MR. ROBERTSON: The question in which this
12 statement appears is one that says, Do you have any
13 other comments with regard to need to permit
14 continued collection of nuclear decommissioning
15 costs from Com Ed customers in order to assure
16 adequate decommissions funding by the Genco?

17 Now, I think this witness has not
18 testified as to the legality of the transfer of the
19 trust, he has not discussed the transfer of the
20 trusts in his testimony, and the question is clearly
21 outside the scope.

22 MR. McKENNA: I'll take his counsel's statement

1 as an interpretation of his testimony and I'll
2 proceed from there.

3 BY MR. McKENNA:

40 4 Q. Let's proceed to your illustration,
5 Mr. Stephens, okay. You claim in your illustration
6 here on Page 13 that Genco will have an after tax
7 margin of \$555 million a year based on certain
8 assumptions that you made, right?

9 A. Actually the figure you cited is considered
10 confidential.

41 11 Q. Okay, I was going to try and do that right.

12 JUDGE HILLIARD: Do you want to go in camera
13 here?

14 MR. McKENNA: We better go in camera here.

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1 (Whereupon, the following
2 proceedings were out of
3 camera.)

4 MR. MCKENNA: Okay.

1 5 Q. Have you found Page 123.14?

6 A. Yes.

2 7 Q. Okay. And 123.15 is the next page and
8 123.16 is the page thereafter. And these are all of
9 the pages that talk about long-term debt of the
10 current company; right?

11 A. I haven't reviewed these pages. It has
12 long-term debt at the top. I'll assume that's the
13 case.

3 14 Q. And companies that finance their capital and
15 other operations through long-term debt have to pay
16 interest on that long-term debt, right?

17 A. Well, that would follow.

4 18 Q. Right, but you don't have any long-term debt
19 interest or short-term debt interest or capital
20 interest at all in your calculation of cost, right?

21 A. They're actually imbedded -- I don't look at
22 interest expense, per se. But in the alternative, I

1 look at return on actual investment, treating it as
2 if it is entirely equity. Were I to use another
3 method whereby I capitalize a good part of it, the
4 returns would probably be considerably higher.

5 Q. My question is different. You have -- and
6 this is a confidential number so I don't know what
7 to do?

8 JUDGE CASEY: Is there a way to ask the question
9 without giving the number?

10 MR. MCKENNA: Yes, maybe I can do that.

6 Q. You have a number we have already made
11 reference to which is the conclusion in your
12 illustration regarding a net margin to Genco, right?

14 A. Yes.

7 Q. We won't refer to that number right now.

16 A. Yes.

8 Q. But that number has a revenue component and
17 a cost component, correct?

19 A. That is correct.

9 Q. And there is no capital debt service cost
20 incorporated in the cost component, right?

22 A. At that level, no.

10 1 Q. Now, let's turn, if you would, to
 2 Page 123.19 and the two following pages, 123.20,
 3 123.21 and 123.22. These are pages of the FERC Form
 4 1 that discuss pension cost and post retirement
 5 benefit cost to the current company, right?
 6 JUDGE CASEY: Have you got there yet,
 7 Mr. Stevens?
 8 THE WITNESS: Well, he gave me several pages.
 9 MR. MCKENNA: They are all consecutive and they
10 start at Page 123.19 at the bottom.
11 Are you there.
12 A. I'm there.
11 13 Q. And the title there is, No. 14, Pension and
 14 Post Retirement Benefits, right?
 15 A. Yes.
12 16 Q. And then if you go through the next one, two
 17 and perhaps stop with me on Page 123.22, right?
 18 A. Okay.
13 19 Q. There you have various types of pension
 20 obligations and costs discussed, right?
 21 A. Yes.
 22

14 1 Q. And you have nothing in your illustration,
 2 at least the cost component, to reflect pension
 3 benefit costs for other post retirement benefit
 4 costs, right?

 5 A. The figures that I'm seeing wouldn't
 6 significantly effect my analysis had I included them
 7 but I don't believe they are included.

15 8 Q. Well, let's pursue that and the figures you
 9 are seeing are a net periodic benefit cost of \$45
 10 million, right?

 11 A. Correct.

16 12 Q. And a post retirement benefit cost for the
 13 whole company of \$95 million, correct?

 14 A. Correct.

17 15 Q. And, logically speaking, there should be
 16 some allocation of that cost to the nuclear part of
 17 the business, right?

 18 A. Yes.

18 19 Q. And you didn't do that?

 20 A. No, I didn't but, like I said, these numbers
 21 aren't big enough to significantly sway my result.
 22

19 1 Q. Well, let's talk about that because the way
 2 -- let's move to the tax component of your work.
 3 You did do a real estate tax allocation
 4 for purposes of your illustration, right?
 5 A. I did.

20 6 Q. And the way you did it was you started with
 7 Page 262.3 of FERC Form 1, right?
 8 A. Yes.

21 9 Q. Total company real estate taxes in '99,
 10 correct?
 11 A. Correct.

22 12 Q. And then you compared nuclear plant to total
 13 plant, also figures from the FERC Form 1, correct?
 14 A. Correct.

23 15 Q. And you developed a ratio, correct?
 16 A. Yes.

24 17 Q. And that ratio was 56.9 percent of total
 18 plant reported in this FERC Form 1 was nuclear
 19 related, right?
 20 A. Yes.
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25 1 Q. So you then said I'll take the total taxes,
 2 real estate taxes, multiply them by 56.99 percent
 3 and that will be what I allocate to the cost for
 4 this hypothetical Genco, right?

 5 A. It was clear to me that the real estate
 6 taxes would properly transfer. Whereas, these other
 7 items, like I said before, it is not clear to me as
 8 I sit here today that those were properly
 9 transferred.

26 10 Q. But it's true that you didn't take
 11 56.9 percent and multiply it by \$45 million and \$95
 12 million in pension obligations, right?

 13 A. That's true.

27 14 Q. Now, let's stick with the real estate taxes
 15 for a minute. You didn't go out and get the tax
 16 bills for the individual properties, right?

 17 A. No. I used a proxy approach.

28 18 Q. And will you accept, subject to check, that
 19 those taxes aren't \$80,599,737?

 20 A. If they were exactly that, it would be
 21 purely coincidence.

 22

29 1 Q. Would you accept subject to check that they
 2 are \$98 million?

 3 MR. ROBERTSON: Where would he be able to check
 4 that? I am not saying he shouldn't. Could you tell
 5 us where we could check that.

 6 MR. MCKENNA: Well, I happen to have the tax
 7 bills with me and I'm going to mark them.

 8 THE WITNESS: It may be true. However, another
 9 \$18 million gets lost in the rounding.

 10 MR. MCKENNA: Q So if you're \$18 million off in
 11 your illustration, that doesn't matter because it is
 12 lost in the rounding, right.

 13 A. Yes.

30 14 Q. And if you're off by not having included 56
 15 percent of some number that might relate to pension
 16 obligations, that's lost in the rounding, right?

 17 A. Assuming it's a fraction of \$140,000.

31 18 Q. \$140 million?

 19 A. \$140 million. Yes, it is lost in the
 20 rounding depending on how big the fraction is.

32 21 Q. How about if the fraction is 56.9 percent,
 22 like you picked for the taxes?

1 A. Then it would be, roughly , \$8 million.

33 2 Q. Lost in the rounding?

3 A. Well --

34 4 Q. Is that right, sir?

5 A. It would have some effect. It would not

6 change my overall conclusion.

35 7 Q. Okay, sir, but in addition capital cost,

8 that's not going to be lost in the rounding, is it?

9 Debt service paid on long-term debt?

10 A. Oh, interest on debt, I don't have a feel

11 for that, as I sit here.

36 12 Q. Billions of dollars worth of debt according

13 to the FERC Form 1, right?

14 A. I understand the transfer price to be much,

15 much less than the current book price.

37 16 Q. But you don't understand that as part of a

17 reorganization, some portion of outstanding

18 indebtedness isn't going to be assigned to the

19 Genco, do you?

20 A. Yes, that is my understanding. Instead it

21 will -- it either has been written down or will

22 continue to be collected through ComEd customers

1 through rates.

38 2 Q. So one of the assumptions that you make in
3 constructing the picture of how profitable Genco
4 will be is that Genco will have no debt?

5 A. No, I didn't make an assumption about the
6 Genco debt. I made an assumption that the Genco's
7 original investment would be, approximately, 1. --
8 can I say this number -- \$1.6 billion.

39 9 Q. Okay. And you haven't allocated some cost
10 to the debt service on \$1.6 billion in constructing
11 your illustration?

12 A. No.

40 13 Q. And you had also testified that you would
14 lose general and administrative expenses associated
15 with the Genco in the rounding too?

16 A. No, I didn't testify to that. I testified
17 that I didn't know if it was appropriate to include
18 them.

41 19 Q. So you're not saying they are not going to
20 have general and administrative. You're just saying
21 you really didn't know how to measure it?

22

1 A. It's not clear to me that they will have
2 any. This is an entity that doesn't yet exist, as I
3 understand it.

42 4 Q. And, really, Mr. Stevens, what that means,
5 the fact that it's an entity that doesn't yet exist
6 and it's going to be broken out of an existing
7 entity, what it means is it's very hazardous to
8 create an illustration which reaches a conclusion
9 about profitability, right?

10 A. No, I don't believe it is hazardous to
11 create an illustration.

43 12 Q. So --

13 A. In fact, my figures were more or less
14 verified earlier today.

44 15 Q. So your belief is that your 1.9 cents a
16 kilowatt hour --

17 JUDGE HILLIARD: Is that a confidential number?

18 MR. ROBERTSON: Yes.

19 JUDGE HILLIARD: Is that a confidential number?

20 MR. MCKENNA: I don't think so. The first half
21 -- that's what he took off the FERC Form 1, plus his
22 adjustments. If I look at his --

1 JUDGE HILLIARD: It is up to you. If you don't
2 care, I don't care.

3 MR. MCKENNA: Page 13 of his redacted does not
4 redact that number.

5 THE WITNESS: Is that right?

6 MR. ROBERTSON: Yes.

7 MR. MCKENNA: Q So it's your testimony, sir,
8 that your 1.9 cents per kilowatt hour consists of
9 the production costs that came from the FERC
10 Form 1, your calculation of appropriate depreciation
11 item and your allocation of real estate taxes
12 converted into a per kilowatt hour basis, right.

13 A. That's correct.

45 14 Q. And it would be different if you also
15 included into the cost that went into your
16 calculation of 1.9 cents per kilowatt hour, if you
17 included long-term capital cost, pension cost, a
18 higher tax cost and general and administrative cost,
19 right?

20 A. If you included those -- if you
21 significantly raised the total production cost, the
22 number 1.9 would go up, that's correct.

1 MR. MCKENNA: Let's shift and now we will go in
2 camera because we're going to talk just about the
3 market price at this point.

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1 (Whereupon, the following
2 proceedings were held out
3 of camera.)

4 JUDGE CASEY: We're no longer in camera.

5 MR. MCKENNA: Just a couple more points I want to
6 cover with you fairly quickly, I hope.

1 7 Q. You say at Page 9 of your testimony that it
8 is not reasonable to assume that the Genco will
9 perform any activities over and above NRC
10 requirements, right?

11 A. Could you point me to a line?

2 12 Q. Line 3 and 4.

13 A. Yes.

3 14 Q. Then you go on at Lines 8 and 9 to say that
15 you can see no rationale for the Commission to
16 obligate customers for funding activities that
17 ultimately may not be undertaken, right?

18 A. By an affiliate that is not subject to ICC
19 regulation in its determination of the continuing
20 Rider 31 obligation, if any, determined in this
21 case.

4 22 Q. So your concern, Mr. Stevens, then about

1 including costs for nonradiological decommissioning
2 in ComEd's proposal is that you believe such
3 nonradiological decommissioning may never be done?

4 A. That's one of my concerns.

5 Q. Now, you know, based on Mr. Berdelle's
6 rebuttal testimony that ComEd has pledged to perform
7 nonradiological decommissioning, right?

8 A. No, that's not right.

6 Q. Pledged to perform nonradiological
10 decommissioning to the extent there are any funds
11 available in the trust at the time such
12 decommissioning operations would take place, right?

13 A. As I understand it, Mr. Berdelle made a
14 commitment on behalf of the Genco that to the extent
15 any surplus and funds in Genco's trust funds exist
16 upon radiological decontamination, then those excess
17 funds would be applied towards site restoration.

7 Q. You suggest that NRC requirements do not
19 mandate nonradiological decommissioning, right?

20 MR. ROBERTSON: Are you saying they do not
21 mandate?

22

1 MR. MR. MCKENNA: Q Do not mandate
2 nonradiological decommissioning, right.

3 A. That's my understanding yes.

8 4 Q. You're not an expert on decommissioning,
5 right?

6 A. I certainly have never performed any
7 studies.

9 8 Q. And you don't know whether nonradiological
9 decommissioning is practically necessary due to the
10 condition of the buildings once radiological
11 decommissioning is complete, right?

12 A. I'm aware that the Commission has determined
13 that that's not the case for ComEd.

10 14 Q. Okay.

15 A. I'm not personally ever gone to a
16 decommission site. There aren't that many that
17 exist.

11 18 Q. Right. And you can't tell us what the
19 condition of the buildings will be after the
20 radiological portion of the decommissioning is done,
21 right?

22 A. Of course not.

12 1 Q. And you're not here to tell us you're an
 2 Illinois land use expert, right?

 3 A. No.

13 4 Q. Or to talk about the county code or the
 5 municipal code of any of the jurisdictions in which
 6 these plants are located, right?

 7 A. That's correct.

14 8 Q. Or to tell us whether a radiologically
 9 decommissioned structure will necessarily be a
 10 hazardous structure once the process is done, right?

 11 A. I make no judgments as to whether or not it
 12 is hazardous.

15 13 Q. Or whether a hazardous structure is required
 14 to be taken down by any applicable land use law,
 15 right? You're not here to tell us that?

 16 A. That's not part of my testimony but I did
 17 seek to determine at some level whether or not that
 18 was the case.

16 19 Q. What did you do in that regard?

 20 A. I reviewed ComEd's response to staff data
 21 request where staff asked ComEd to provide all
 22 documents that would require it to perform site

1 restoration.

17 2 Q. Did you go out and do any independent legal
3 research?

4 A. Well, I figured if ComEd wasn't aware of any
5 and didn't submit any, it wouldn't be a whole lot of
6 use of me taking the time to do so myself.

18 7 Q. You didn't look at the County's code or the
8 Will County building code or the BOCA code?

9 MR. ROBERTSON: Asked and answered. I think he
10 said he didn't do it because ComEd wasn't able to
11 identify anything.

12 MR. MCKENNA: And now I'm asking a more specific
13 question.

14 THE WITNESS: If ComEd provided those in response
15 to the direct request, I probably would have looked
16 at them.

17 MR. MCKENNA: Okay. All right. Now let's talk
18 about license renewals for a moment.

19 19 Q. You claim that it is not reasonable to
20 assume that the Genco ultimately will not seek to
21 extend the operating licenses of any of the ten
22 units transferred, right?

1 A. Could you point me to a line of my
2 testimony.

20 3 Q. That's Line 9, Page 12.

4 A. Yes.

21 5 Q. And you agree, Page 10, Line 3, that it is,
6 of course, somewhat speculative to try to determine
7 the cost impact of yet unknown license renewals,
8 right?

9 A. Once again, you have only read part of my
10 sentence. I go onto to say, However , it is equally
11 speculative and less reasonable to assume that Genco
12 will seek zero license renewals as ComEd's Rider 31
13 proposal does assume.

22 14 Q. Okay. For you, though, sir, it is
15 especially speculative to project whether a
16 particular license renewal for a particular unit can
17 be obtained, right?

18 A. No. That's not right.

23 19 Q. Well, sir, do you hold yourself out as an
20 expert in NRC license renewals?

21 A. I never have, no.

24 22 Q. Have you studied the NRC regulations?

1 A. I have reviewed some of them.

25 2 Q. Have you joined the nuclear institute or its
3 subcommittee on renewal?

4 MR. ROBERTSON: Excuse me. This witness, unlike
5 some of the others, hasn't identified a single unit
6 which he says is going to be the subject of a
7 license transfer nor has he offered an opinion about
8 that. He has only offered the opinion that Edison
9 is assuming none but it is studying the possibility
10 of two.

11 I don't think it is appropriate to cross
12 him on his knowledge of -- well -- never mind. I'll
13 withdraw the objection.

14 MR. MCKENNA: Okay. There is no question
15 pending.

26 16 Q. I want to go onto that part of your
17 testimony that you just quoted for me that it would
18 be equally speculative and less reasonable to assume
19 that Genco will seek zero license renewals, right?

20 A. Yes.

27 21 Q. But, regardless, it's speculative either
22 way, right?

1 A. Well, that's hard to say. If you have got a
2 range of potential outcomes and in this case the
3 range -- the low end is zero and the high end is all
4 ten operating units, I'm not going to say that it is
5 equally speculative that any particular outcome
6 within that range is going to occur.

28

7 Q. But I didn't ask you if it was equally.

8 I just said, it's true, isn't it, that
9 particularly for you because you don't have
10 background in NRC licensing issues or NRC license
11 renewal issues, it is speculative either way to say
12 they will apply; they won't apply?

13 A. It is speculative for anyone to make a
14 statement as to all of these, including ComEd.

15 MR. MCKENNA: No further questions.

16 JUDGE HILLIARD: Anybody else?

17 Redirect?

18 MR. ROBERTSON: Can we have a couple minutes.

19 JUDGE HILLIARD: I have a few.

20

21

22

1 EXAMINATION

2 BY

3 JUDGE HILLIARD:

29 4 Q. A few minutes can go you indicated in
5 response to one of THE questions to you that you had
6 concerns besides the nonradiological decommissioning
7 expense.

8 Do you recall that line of questioning at
9 all in regard to the revised proposal?

10 A. I don't have the question exactly in mind
11 but let's give it a try.

30 12 Q. The question was something like you express
13 a concern about the expense of nonradiological
14 decommissioning in regard to the revised ComEd
15 proposal. And you said, yes, that's one of my
16 concerns or something to that effect.

17 A. Okay.

31 18 Q. Do you recall any other concerns about the
19 revised proposal?

20 A. Sure. If could you give me a second so I
21 could look it up.

32 22 Q. Sure.

1 A. My understanding of the revised proposal is
2 based primarily on my review of the rebuttal
3 testimony of Robert Berdelle at Pages 2 and spilling
4 over to 3.

5 My concerns are not that his revised
6 proposal are any worse than the original proposal,
7 the original ComEd proposal. Rather that they
8 provide very little, if any, value such that they
9 make the overall proposal applicable. And I would
10 be happy to go through them one by one if you would
11 like me to.

33 12 Q. How long would it take?

13 A. Five minutes, three minutes.

34 14 Q. Why don't you start.

15 A. Actually, Items 1 and 2 I'll cover in one
16 fell swoop.

17 Bear in mind that it is the Genco that
18 will determine whether or not contributions are made
19 to trust funds based on its requirements as
20 specified by the NRC.

21 If the Genco is not obligated by the NRC
22 to fund over and above a particular level for

1 something such as site restoration costs, it is hard
2 for me to understand why the Genco would necessarily
3 do so unless there was some obligation. Therefore,
4 a commitment made by Mr. Berdelle, a ComEd employee
5 today, about obligation on the Genco that may or may
6 not come about until 30, 40, 50 years in the future
7 is of negligible value. That's 1 and 2.

8 No. 3, a condition -- that collection of
9 the 120 million in decommissioning funds in 2005 and
10 2006 is dependent on ComEd, Genco reaching an
11 agreement on market price. Frankly, I don't see
12 much of a reason that they wouldn't reach agreement.
13 In fact, ComEd indicated in response to a data
14 request that that was a very highly unlikely
15 circumstance. It was in response to IIEC No. 14, I
16 believe.

17 And, finally, No. 4, binding commitment
18 in the Commission order that ComEd will be required
19 to accept in writing that after receipt of the
20 payments, they will forever waive any rights to
21 obtain additional decommissioning recoveries.
22 Frankly, I thought that was a part of their proposal

1 all along. That the impact would be that they would
2 never collect another dollar. If this is a -- if
3 this is a new provision here, then, basically, if we
4 wanted to get a little snookered a little bit in the
5 original proposal.

35

6 Q. Does your testimony include any or
7 incorporate any assumptions about decommissioning
8 costs and escalation rates and, if so, what are
9 they?

10 A. I don't make any particular assumptions
11 about escalation rates. I provide a reference to
12 the existing escalation rates and general terms as
13 compared to the existing earning rates and general
14 terms. They describe what the impact would be if
15 those conditions held true in terms of the necessity
16 for future funding.

17 Specifically, I said if the current less
18 than five escalation rates hold and the greater than
19 seven earns rate -- earnings growth rates hold, then
20 the longer you don't spend the money, the more money
21 -- the more money that will be there. The earnings
22 escalation will out pace the cost escalation. I

1 didn't make an independent estimate of the cost
2 escalations.

36

3 Q. Do you have any recommendations on what the
4 Commission might do in regard to the PPA assuming
5 that some decommissioning payments are made to the
6 proposal to ensure that rate payers don't overpay
7 for the decommissioning expense.

8 A. If I understood your question correctly, you
9 asked what the Commission could do in the context of
10 the PPA. I'm not sure the Commission can do
11 anything there. I believe the Commission -- well, I
12 don't know. I guess it is a legal issue as to
13 whether or not the Commission can go back and adjust
14 the Rider 31 levels that are ultimately adopted in
15 this proceeding assuming they would be greater than
16 zero. I don't know what its legal capability for
17 doing that is.

18 Certainly, the Commission may want to
19 consider revisiting that in a couple of years. This
20 whole thing is a deal and I think it is important
21 for the Commission to ensure that customers aren't
22 getting hoodwinked here.

37 1 Q. Would it make any difference to ratepayers
2 if the Commission required ComEd and Genco to seek
3 approval for a price of energy in 2005 and 2006?

4 A. Let me ask this, are you asking for the
5 Commission to approve whatever the agreed market
6 price is before ComEd can pay it to the Genco?

38 7 Q. I guess the question is whether or not it
8 would ameliorate any of your concerns about the
9 fairness of this proposition if the Commission had
10 the ability to oversee the rates that Genco and
11 ComEd agreed upon for power in the last two years of
12 its PPA?

13 A. It seems to me the Commission will have some
14 limited oversight of that already through its
15 ongoing financial monitoring function as well as its
16 rate case approval function. As I sit here, I can't
17 see any reason or anything that would be hurt by the
18 Commission obtaining jurisdiction over that.

19 But on the other hand if ComEd and Genco
20 agreed to a price that is 20 times what's available
21 in the market, I have faith that the Commission will
22 take that into consideration in determining whether

1 or not a rate increase is necessary or a rate
2 decrease for that matter.

39 3 Q. Is it your opinion that the \$5.6 billion
4 figure which is the nominal cost of decommissioning,
5 is that -- do you accept that figure in your
6 presentation and calculations?

7 A. Well, I guess ultimately I question that
8 figure because my understanding is that figure is
9 based on all of the cost assumptions embodied in
10 ComEd's Rider 31 proposal and I tried to draw into
11 question two of those cost assumptions.

12 So I haven't sought to quantify on the
13 present value basis how the \$5.6 billion would be
14 effected, however.

40 15 Q. Are you familiar with Mr. Bobitz (phonetic)
16 proposal to allocate decommissioning costs for Genco
17 based upon the respective shares of license life of
18 the plants.

19 A. Only vaguely. I'm superficially familiar.
20 I saw it in his testimony but it didn't seem to
21 dispute anything that I had raised, so I didn't take
22 the time to try and understand it as fully as

1 perhaps I should have.

2 JUDGE HILLIARD: That's all I have.

3 JUDGE CASEY: Do you need a couple of minutes.

4 MR. ROBERTSON: Please.

5 JUDGE CASEY: Go off the record for a couple of
6 minutes.

7 (Discussion off the record.)

8 JUDGE CASEY: Back on the record.

9 Mr. Robertson, you have redirect?

10 REDIRECT EXAMINATION

11 BY

12 MR. ROBERTSON:

41 13 Q. I would like to show the witness a copy of
14 City Cross Exhibit 5, Page CE-00082.

15 JUDGE HILLIARD: We're back in camera then?

16 MR. ROBERTSON: Yes.

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1 (Whereupon, the following
2 proceedings were had out of
3 camera.)

4 MR. ROBERTSON: Q You were also asked questions
5 in cross-examination concerning your assumption that
6 Genco would not perform -- I forget the reference
7 now -- activities over and above NRC requirements.
8 Your testimony on Page 9, Lines 3, 4. Do you
9 remember that.

10 A. Yes, I do.

1 11 Q. Now, were there any other -- was there any
12 other basis that you have for that assumption?

13 A. Yes. In fact, I was asked that question by
14 Commonwealth Edison in a data request and I listed
15 several reasons why I believe that to be so. And
16 those include the fact that Genco would be a profit
17 seeking entity and, of course, the associated
18 motivations of a profit seeking entity, Genco will
19 not be subject to ICC jurisdiction in relation to
20 decommissioning. Decommissioning will be performed
21 pursuant to NRC regulations, citing Edison Exhibit
22 2, Page 8. That the contribution agreement does not

1 specify trust contributions exceeding those needed
2 to comply with NRC regulations.

3

4 Citing ComEd response to Staff Data
5 Request ENG 1.5, that future uses of the sites after
6 decommissioning have not been specified by ComEd at
7 least not in any of the documents I have viewed.
8 And the one I mentioned earlier when specifically
9 asked to produce any document that would require
10 Genco to perform site restoration activities, ComEd
11 failed to produce a single one, cited in ComEd's
12 response to Staff Data Request ENG 1.2. That
13 request I interpreted to include both state and
14 local requirements.

15 And then a couple of quotes from some
16 ComEd exhibits. One quote, The NRC does not require
17 removal or demolition of structure following
18 licensed termination. Therefore, there is at this
19 time no federal requirement regarding the ultimate
20 disposition of the ComEd station facilities
21 following nuclear decommissioning citing Edison
22 Exhibit TSL-9, Paragraph 1.1.2. I can't say with

1 certainty that's the exact paragraph. I think there
2 is a typo.

3 And then finally that the Genco must
4 ensure that final disposition does not posed any
5 threat to the public health and safety by either
6 taking down structures or making safe and secure,
7 cited in the same two references as above.

2 Q. Now, when employed -- last employed by the
9 Commission, in what capacity were you employed?

10 A. My last three years with the Commission were
11 as an executive assistant to Commissioner
12 Kohlhauser.

3 Q. In that capacity, did you have occasion to
14 review nuclear decommissioning filings relating to
15 either Rider 31 or Illinois Power's cost recovery
16 rider?

17 A. Yes, I did --

4 Q. Okay.

19 A. -- during my tenure.

20 MR. ROBERTSON: Thank you. No further questions.

21 MR. MCKENNA: Nothing further.

22 MS. DOSS: I simply ask that the record reflect

1 that we were not in camera from the point where
2 Mr. Robertson asked Mr. Stevens regarding Genco and
3 whether it will do activities over NRC minimums and
4 to the end of his redirect. I don't believe any of
5 that had any confidential information on it.

6 MR. ROBERTSON: I think that's correct.

7 JUDGE HILLIARD: Anybody have any recollection
8 other than that?

9 MR. MCKENNA: I agree with that.

10 JUDGE HILLIARD: Then the record will show that
11 after that point the testimony we were out of the in
12 camera proceedings.

13 MR. ROBERTSON: I did forget one question, if I
14 might.

15 JUDGE CASEY: Specifically what question so that
16 it can be accurately reflected on the record.

17 MS. DOSS: Well, your Honor, I didn't want to
18 object during his redirect.

19 JUDGE CASEY: Well, it is more difficult now.

20 MS. DOSS: I believe it is two questions back.
21 It starts with Genco would not do activities over
22 NRC minimums. If you could look that up, please.

1 JUDGE CASEY: Before I forget, there were some
2 exhibits used by Commonwealth Edison for cross.
3 They had not been tendered or asked to be admitted.
4 Would Commonwealth Edison like to make that motion
5 now?

6 MR. MCKENNA: We move to admit 13, 14 and 15 but
7 not 12 which was the capacity chart.

8 JUDGE CASEY: Any objection to the admission of
9 those three?

10 MR. REVETHIS: No objection.

11 MR. WARREN: I just have one objection to 13,
12 your Honor. I noticed when I was looking through it
13 that during his cross he used the full document and
14 he referred to pages that are not part of the
15 smaller group. I just want -- I have an objection
16 that this isn't complete.

17 For example, he referred to 123.19, 20,
18 21 and 22 and all we have here is 19 and 22. There
19 was another one but I don't recall off the top of my
20 head but there were a couple pages missing.

21 JUDGE HILLIARD: We do have one complete copy in
22 the record.

1 MR. MCKENNA: We can make as many copies as you
2 need. Let us know.

3 JUDGE CASEY: Well, so that the record is
4 complete, I need two more copies of the full.

5 MR. MCKENNA: Okay.

6 JUDGE CASEY: Now, what the parties have
7 discussed here earlier today is that anything that
8 gets admitted that that party would share that with
9 anyone who wants it so.

10 MR. REVETHIS: We would like copies of all of the
11 exhibits.

12 MR. MCKENNA: Including the full FERC 1?

13 MR. REVETHIS: No, I'm not specifically speaking
14 to Commonwealth Edison but we would like copies of
15 all exhibits that have been put into evidence.

16 JUDGE HILLIARD: It will increase the proposal
17 cost by several thousand dollars, cross exhibits.

18 MR. ROBERTSON: I have one question I forgot. I
19 beg your indulgence to ask it.

20 JUDGE HILLIARD: Sure. Is this in camera or out
21 of camera.

22 MR. ROBERTSON: This is not in camera, not

1 anything confidential.

5

2 Q. Mr. Stevens, you were asked some questions
3 about your thoughts about the possibility of license
4 extensions and your assumption that it was
5 inappropriate to assume that it would be zero life
6 extensions.

7 Do you have any other basis, as you sit
8 here today, for thinking that it will be something
9 more than zero as far as license extensions from
10 Commonwealth Edison point?

11 A. Yes, I do.

12 I explained the range earlier how ComEd
13 uses one extreme versus some other value closer to
14 the middle. I sought to determine of the nuclear
15 operating stations in the US today that operating
16 licenses not retired how many of those are nearing
17 the end of their license life, how many are within
18 the window of 5 to 20 years.

19 My understanding is that you do not seek
20 license renewal prior to 20 years before
21 determination and you're best off if you seek it
22 prior to 5 years before termination pursuant to the

1 timely renewal provisions.

2 And then the breakdown. There are 64
3 stations. Zero of the units are within 5 years.
4 There are four units within the window -- let me
5 retract the four units. There are 38 operating
6 stations within the window. And then, of course,
7 there are 26 operating stations greater than 20
8 years.

9 So given the figure cited in my testimony
10 and also cited in Mr. Riley's testimony about the
11 fact that 2 applications have been approved, 2
12 applications are pending and, approximately, 15 to
13 16 other applications are announced as future
14 submittals. That's a total of around 19 or 20 that
15 have actually either been announced, approved or are
16 pending out of 38. That's at least 50 percent. I
17 believe that is further support for the inception
18 that zero is not particularly a likely outcome.

19 MR. ROBERTSON: Thank you.

20 JUDGE HILLIARD: Cross?

21 MR. MCKENNA: Nothing further.

22 JUDGE HILLIARD: Okay.

1 JUDGE CASEY: This matter will be continued until
2 Monday morning at 9:30 a.m.

3 (Whereupon the foregoing
4 proceedings were continued
5 to Monday, August 28, 2000
6 at 9:30 a.m.)

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